

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County
Lee S. Alford, Circuit Court Judge

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S.C. Supreme Court

JAMES CORBETT

RESPONDENT,

V.

STATE OF SOUTH CAROLINA,

PETITIONER

APPELLATE CASE NO. 2012-213158

APPENDIX

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INDEX

INDEX	i
PLEA TRANSCRIPT	1
APPLICATION FOR POST-CONVICTION RELIEF	40
MOTION FOR DEFAULT JUDGMENT	47
BRIEF IN SUPPORT OF MOTION FOR DEFAULT	50
LETTER RE: MOTION FOR DEFAULT	53
LETTER RE: RESPONSE TO STATE	54
LETTER RE: ATTONERY GENERAL TO APPLICANT	55
RETURN	56
CONDITIONAL ORDER OF DISMISSAL	63
LETTER RE: MOTION FOR EXTENSION IN TIME	70
LETTER	73
ORDER CLARIFYING SENTENCE	74
POST-CONVICTION RELIEF HEARING TRANSCRIPT	76
POST-CONVICTION RELIEF EXHIBIT LETTER ("TURTLE")	117
ORDER OF DISMISSAL	122
INDICTMENTS	130

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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STATE OF SOUTH CAROLINA
COUNTY OF YORK

COURT OF GENERAL SESSIONS

STATE OF
SOUTH CAROLINA

-V-

JAMES RAY CORBETT, JR.,
DEFENDANT

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TRANSCRIPT OF RECORD

2002-GS-46-1055

APRIL 8, 2003
YORK, SOUTH CAROLINA

B E F O R E:
THE HONORABLE JOHN C. HAYES, III

A P P E A R A N C E S:

KEVIN BRACKETT, DEPUTY SOLICITOR
1675 YORK HIGHWAY
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EXHIBITS

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S-1 STATEMENT

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S-2 STATEMENT

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S-3 STATEMENT

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1 (THE CO-DEFENDANTS JOSHUA CLAYTON, HILLARY
2 ROSENDALL AND JASON KEYE ARE PRESENT IN THE
3 COURTROOM.)

4 THE COURT: IF YOU'LL PUT YOUR LEFT HAND ON
5 THE BIBLE AND RAISE YOUR RIGHT, THE CLERK WILL
6 ADMINISTER AN OATH.

7 JAMES RAY CORBETT, BEING FIRST DULY
8 SWORN, TESTIFIED AS FOLLOWS.

9 MR. BRACKETT: YOUR HONOR, THIS IS IN
10 REFERENCE TO DOCKET NUMBERS 2003-GS-46-1055.
11 THIS IS AN INDICTMENT CHARGING COUNT ONE MURDER,
12 IN COUNT TWO POSSESSION OF A FIREARM DURING THE
13 COMMISSION OF A VIOLENT CRIME. THE DEFENDANT IS
14 PUT TO THE BAR AND IS ENTERING A PLEA TO THE
15 FIRST COUNT OF MURDER. AND 2003-GS-46-1056 THIS
16 IS AN INDICTMENT FOR KIDNAPPING AND TWO COUNT
17 POSSESSION OF A FIREARM DURING THE COMMISSION OF
18 A VIOLENT CRIME. AGAIN THE DEFENDANT IS PUT TO
19 THE BAR AND INDICATES HE IS GOING TO ENTER A
20 PLEA OF GUILTY TO COUNT ONE CHARGE OF
21 KIDNAPPING. HE IS REPRESENTED BY MR. DAN
22 D'AGOSTINO OF THE YORK COUNTY BAR. AND THE
23 STATE AND THE DEFENSE HAVE ENTERED LIMITED
24 NEGOTIATIONS IN THIS MATTER AT THE APPROPRIATE
25 TIME.

1 THE COURT: ALL RIGHT. YOU ARE JAMES RAY
2 CORBETT, JR.?

3 MR. CORBETT: YES, SIR.

4 THE COURT: HOW OLD ARE YOU?

5 MR. CORBETT: 26.

6 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

7 MR. CORBETT: I HAVE A GED.

8 THE COURT: AND BEFORE YOU WERE
9 INCARCERATED WHAT DID YOU DO FOR A LIVING?

10 MR. CORBETT: IMMEDIATELY PRIOR TO
11 INCARCERATION I WAS UNEMPLOYED.

12 THE COURT: WHEN YOU DID WORK, WHAT KIND OF
13 WORK DID YOU DO?

14 MR. CORBETT: THE LAST JOB I HAD I THINK
15 WAS AT U.S. STRAPPING.

16 THE COURT: U.S. WHAT?

17 MR. CORBETT: U.S. STRAPPING.

18 THE COURT: OKAY. HAVE YOU EVER BEEN
19 TREATED FOR ANY MENTAL OR EMOTIONAL
20 DISABILITIES?

21 MR. CORBETT: NO, SIR.

22 THE COURT: YOU ARE CHARGED WITH, YOU ARE
23 REPRESENTED BY MR. D'AGOSTINO?

24 MR. CORBETT: YES, SIR.

25 THE COURT: YOU SATISFIED WITH HIS

1 SERVICES?

2 MR. CORBETT: YES, SIR, I AM.

3 THE COURT: YOU ARE CHARGED WITH A COUNT OF
4 MURDER AND A COUNT OF KIDNAPPING, ARE TWO TRUE
5 BILLED INDICTMENTS. I'M TOLD YOU WISH TO ENTER
6 PLEAS TO EACH OF THESE. THEY ALLEGE IN THE
7 MURDER INDICTMENT THAT ON OR ABOUT A TIME PERIOD
8 BETWEEN OCTOBER FIRST AND OCTOBER SECOND OF 2002
9 THAT YOU DID WITH MALICE AFORETHOUGHT UNLAWFULLY
10 KILL THE VICTIM JOSEPH LEE HALE BY MEANS OF
11 SHOOTING THE VICTIM, THAT HE DIED AS A RESULT
12 THEREOF. THAT THIS OCCURRED IN YORK COUNTY IN
13 VIOLATION OF LAWS OF THIS STATE. YOU UNDERSTAND
14 WHAT YOU ARE CHARGED WITH?

15 MR. CORBETT: YES, SIR, I DO.

16 THE COURT: MURDER HERE IN SOUTH CAROLINA
17 BY LAW IS A FELONY. IT CARRIES LIFE UP TO 30
18 YEARS OR, LIFE OR UP TO 30 YEARS IN JAIL OR 30
19 YEARS, PROBABLY OUGHT TO SAY 30 YEARS UP TO LIFE
20 IN JAIL. IT IS AN 85 PERCENT OR NO PAROLE
21 OFFENSE. THAT MEANS THAT ANYONE WHO IS FOUND
22 GUILTY OR PLEADS GUILTY TO MURDER MUST SERVE AT
23 LEAST 85 PERCENT OF WHATEVER SENTENCE THEY
24 RECEIVE BEFORE THEY WOULD EVEN BE ELIGIBLE FOR
25 PAROLE AND UPON PAROLE THEY WILL BE SUBJECT TO

1 BEING IN A COMMUNITY SUPERVISION PROGRAM.

2 IT IS A VIOLENT OFFENSE. A VIOLENT OFFENSE
3 MEANS THAT WHILE ONE IS INCARCERATED FOR THAT
4 TYPE OFFENSE THEY ARE NOT ALLOWED CERTAIN
5 OPPORTUNITIES OR PROGRAMS WHICH NON-VIOLENT
6 OFFENDERS ARE ENTITLED TO PARTICIPATE IN.

7 IT IS A MOST SERIOUS OFFENSE. A MOST SERIOUS
8 OFFENSE IS A CATEGORY OF OFFENSES THAT IF IN
9 ONE'S LIFETIME THEY RECEIVE TWO MOST SERIOUS
10 OFFENSES OR A COMBINATION OF THREE SERIOUS AND
11 MOST SERIOUS OFFENSES THEY WOULD BE SUBJECT TO
12 BEING INCARCERATED FOR LIFE WITHOUT POSSIBILITY
13 OF EVER BEING PAROLED. DO YOU UNDERSTAND THE
14 PENALTY YOU COULD RECEIVE FOR MURDER?

15 MR. CORBETT: YES, SIR, I DO.

16 THE COURT: SO AS TO MURDER YOU UNDERSTAND
17 WHAT YOU HAVE BEEN CHARGED WITH AND THE
18 POTENTIAL PENALTY?

19 MR. CORBETT: YES, SIR.

20 THE COURT: HOW DO YOU PLEAD TO THAT
21 CHARGE?

22 MR. CORBETT: GUILTY.

23 THE COURT: YOU ARE ALSO CHARGED IN THE
24 SECOND INDICTMENT WITH KIDNAPPING. IT'S ALLEGED
25 THAT IN THE TIME PERIOD BETWEEN OCTOBER FIRST,

1 2002, AND OCTOBER SECOND, 2002, THAT YOU DID
2 UNLAWFULLY SEIZE, CONFINED, INVEIGLED, DECOY,
3 KIDNAP, ABDUCT, OR CARRY AWAY JOSEPH LEE HALE
4 WITHOUT AUTHORITY OF LAW AND AGAINST MR. HALE'S
5 WILL AND CONSENT. THIS OCCURRED IN YORK COUNTY
6 AND THAT WAS IN VIOLATION OF THE LAWS OF THIS
7 STATE.

8 KIDNAPPING IS ALSO A FELONY. IT CARRIES UP TO
9 30 YEARS IN JAIL. IT IS ALSO A PAROLE
10 INELIGIBLE OFFENSE. THAT MEANS AGAIN YOU MUST
11 SERVE AT LEAST 85 PERCENT OF ANY SENTENCE YOU
12 RECEIVE BEFORE YOU COULD EVEN BE ELIGIBLE FOR
13 CONSIDERATION OF PAROLE, AND THEN UPON PAROLE
14 YOU WOULD BE SUBJECT TO BEING IN THE COMMUNITY
15 SUPERVISION PROGRAM. IT IS A VIOLENT OFFENSE
16 AND I'VE TOLD YOU WHAT THAT MEANS. IT IS A MOST
17 SERIOUS OFFENSE AND I'VE TOLD YOU WHAT THAT
18 MEANS.

19 NOW I WILL TELL YOU THAT I INDICATED THAT IF YOU
20 RECEIVE TWO MOST SERIOUS OFFENSES IN YOUR
21 LIFETIME YOU WILL BE SUBJECT TO BEING LIFE
22 WITHOUT PAROLE. THIS SENTENCE YOU ARE ENTERING
23 A PLEA TO AT THE SAME EVENT, THE SAME INCIDENT,
24 ON THE SAME DAY COUNTS AS ONLY ONE MOST SERIOUS
25 OFFENSE EVEN THOUGH IT'S TWO, BUT SINCE YOU ARE

1 ENTERING THEM ON THE SAME DAY IT WOULD REQUIRE
2 YOU TO BE FOUND GUILTY OR PLEAD TO A SUBSEQUENT
3 MOST SERIOUS BEFORE YOU'LL BE SUBJECT TO LIFE
4 WITHOUT PAROLE. DO YOU UNDERSTAND THE CHARGES
5 AND THE POTENTIAL PENALTY ON THE KIDNAPPING?

6 MR. CORBETT: YES, SIR.

7 THE COURT: HOW DO YOU PLEAD TO THAT?

8 (MR. CORBETT CONFERS WITH MR. D'AGOSTINO.)

9 MR. CORBETT: GUILTY.

10 THE COURT: ALL RIGHT. IF AT ANY TIME YOU
11 DO NEED TO TALK WITH YOUR ATTORNEY, JUST STOP.
12 IT DOES NOT OFFEND ME WHATSOEVER IF YOU WANT TO
13 TALK TO HIM. THAT'S WHY YOU HAVE AN ATTORNEY,
14 ONE OF THE REASONS, SO IF YOU WANT TO DISCUSS
15 ANYTHING WITH YOUR ATTORNEY AT ANY TIME FEEL
16 FREE TO DO IT. IT DOESN'T BOTHER ME AT ALL.
17 THAT IS YOUR RIGHT.

18 NOW OTHER THAN THE REDUCTION OF THESE, NOT THE
19 REDUCTION, BUT THE DROPPING OF TWO COUNTS OF
20 POSSESSION OF A PISTOL AT THE TIME OF THE
21 COMMISSION OF A VIOLENT CRIME, OTHER THAN THE
22 DROPPING OF THOSE, HAS ANYONE MADE ANY PROMISE
23 OR THREATS OF ANY KIND WHATSOEVER TO CAUSE YOU
24 TO ENTER YOUR PLEA TODAY TO THESE TWO CHARGES?

25 MR. CORBETT: NO, SIR.

1 THE COURT: ARE YOU TODAY UNDER THE
2 INFLUENCE OF ANYTHING THAT WOULD CAUSE YOU TO BE
3 INTOXICATED, EITHER DRUGS OR ALCOHOL?

4 MR. CORBETT: NO, SIR, I'M NOT.

5 THE COURT: ARE YOU ENTERING YOUR PLEA
6 TODAY FREELY AND VOLUNTARILY?

7 MR. CORBETT: YES, SIR, I AM.

8 THE COURT: MR. CORBETT, YOU HAVE THE RIGHT
9 TO A TRIAL BY JURY ON THESE CHARGES AND YOU ARE
10 PRESUMED INNOCENT OF THESE CHARGES UNTIL SUCH
11 TIME AS THE STATE WOULD BE ABLE TO PROVE TO A
12 JURY YOUR GUILT BEYOND A REASONABLE DOUBT. YOU
13 HAVE THE RIGHT TO REMAIN SILENT; THAT IS, NO ONE
14 CAN COMPEL YOU TO MAKE ANY STATEMENT OR TESTIFY
15 AGAINST YOURSELF REGARDING THESE CHARGES. YOU
16 HAVE THE RIGHT TO CONFRONT, THAT IS, TO SEE,
17 HEAR, QUESTION, AND CROSS EXAMINE, YOURSELF AND
18 YOUR ATTORNEY, THE WITNESSES WHO WOULD TESTIFY
19 FOR THE STATE AGAINST YOU, AND YOU HAVE THE
20 RIGHT TO REQUIRE THE STATE TO ISSUE LEGAL
21 PROCESS TO BRING TO COURT THOSE WITNESSES WHO
22 YOU THINK PERHAPS WOULD TESTIFY ON YOUR BEHALF.
23 YOU UNDERSTAND YOU HAVE THESE RIGHTS?

24 MR. CORBETT: YES, SIR, I DO.

25 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT

1 THEM?

2 MR. CORBETT: NO, SIR, I DO NOT.

3 THE COURT: HAVE YOU EXPLAINED THOSE TO
4 HIM, MR. D'AGOSTINO?

5 MR. D'AGOSTINO: YES, SIR, YOUR HONOR.

6 THE COURT: YOU BELIEVE HE UNDERSTANDS?

7 MR. D'AGOSTINO: YES, SIR, YOUR HONOR.

8 THE COURT: I ADVISE YOU, MR. CORBETT, THAT
9 BY ENTERING A PLEA OF GUILT TO AN OFFENSE AND
10 HERE THERE IS TWO YOU ARE GIVING UP THOSE RIGHTS
11 AND ANY DEFENSE THAT YOU MAY HAVE TO THESE
12 CHARGES. DO YOU UNDERSTAND THAT?

13 MR. CORBETT: YES, SIR, I DO.

14 THE COURT: KNOWING THOSE THINGS I ASK
15 AGAIN, HOW DO YOU PLEAD TO MURDER?

16 MR. CORBETT: GUILTY.

17 THE COURT: HOW DO YOU PLEAD TO KIDNAPPING?

18 MR. CORBETT: GUILTY.

19 THE COURT: ALL RIGHT. DOES HE HAVE ANY
20 PRIOR RECORD?

21 MR. BRACKETT: YES, SIR, YOUR HONOR. HIS
22 PRIOR RECORD DATES BACK FROM THE EARLY '90'S.
23 CONSISTS OF A BURGLARY CONVICTION, SHOPLIFTING
24 CONVICTION RECEIVED AUGUST 17 OF '94,
25 SHOPLIFTING AUGUST 17, 1994. DISORDERLY CONDUCT

1 AUGUST 22 OF 1994. TWO COUNTS BURGLARY SECOND
2 DEGREE VIOLENT SEPTEMBER 15, 1994. BURGLARY
3 SECOND NON-VIOLENT, FOUR PETITE LARCENIES, FOUR
4 BREAKING AND ENTERING AN AUTO, ANOTHER PETITE
5 LARCENY. IN DECEMBER OF 1999 THERE WERE
6 APPROXIMATELY 12 COUNTS OF FRAUDULENT CHECKS.
7 THAT'S THE EXTENT OF HIS RECORD.

8 THE COURT: ALL RIGHT. NOW I NEED TO KNOW
9 THE FACTS. HOW DO YOU WISH TO DO THAT? DO YOU
10 WISH TO GIVE A RECITATION OR --

11 MR. BRACKETT: YES, SIR, I WILL GIVE YOU---

12 THE COURT: TESTIMONY OR GIVE ME A
13 STATEMENT OR WHATEVER.

14 MR. BRACKETT: I'LL GIVE YOU A BRIEF
15 RECITATION OF THE FACTS. AND IF YOUR HONOR HAS
16 ANY QUESTIONS REGARDING THE FACTS OFFICER TIM
17 HAGER, LIEUTENANT HAGER, FROM THE SHERIFF'S
18 DEPARTMENT IS HERE. BECAUSE OF THE NATURE OF
19 THE WAY WE'RE DOING THIS, THE SENTENCING IS
20 GOING TO TAKE PLACE AT THE CONCLUSION OF THE
21 CO-DEFENDANT'S GUILTY PLEAS, IF YOU HAVE ANY
22 QUESTIONS ABOUT ANYTHING AS ONE DEFENDANT
23 RELATES TO ANOTHER OR WHAT ONE MIGHT HAVE DONE
24 THAT MIGHT AFFECT THE DECISION AS FAR AS
25 SENTENCING LIEUTENANT HAGER IS HERE TO ANSWER

1 ANY QUESTIONS AND WE HAVE THE FILE HERE
2 AVAILABLE.

3 BRIEFLY THE FACTS FOR RIGHT NOW. THE FACTS ARE
4 ON OCTOBER FIRST OF LAST YEAR AND ON
5 INDEPENDENCE BOULEVARD THIS DEFENDANT ALONG WITH
6 FOUR OTHER INDIVIDUALS WERE AT THE APARTMENT THE
7 OF KATIE KATHERINE SMITH. SHE WAS THE RESIDENT
8 AND OWNER OF THE APARTMENT. THEY WERE ALL
9 FRIENDS. THEY CONCOCTED OR HATCHED A PLAN TO
10 CALL THE VICTIM IN THIS CASE LEE HALE TO THE
11 APARTMENT AND LURING HIM THERE FOR THE PURPOSE
12 OF ROBBING HIM. ONE OF THE INDIVIDUALS HILLARY
13 ROSENDALL WHO WILL BE PLEADING LATER CALLED MR.
14 HALE ON HIS CELL PHONE AND TOLD HIM TO COME TO
15 MS. SMITH'S APARTMENT. WHEN HE SHOWED UP SHE
16 TOOK HIM INTO THE APARTMENT, MR. CORBETT, MR.
17 CLAYTON, WHO IS GOING TO BE PLEADING LATER, AND
18 ALSO ROSENDALL, KATIE SMITH, AND JESSICA JONES
19 WHO IS NOT BEFORE THE COURT TODAY, WERE ALL IN
20 THE APARTMENT ALONG WITH KATIE SMITH THE OWNER
21 OF THE APARTMENT. THEY HAD HIDDEN IN THE
22 APARTMENT AND AFTER MR. HALE HAD ENTERED THE
23 APARTMENT THEY JUMPED OUT FROM THEIR HIDING
24 PLACES, THEY WERE ARMED WITH A SHOTGUN AND A
25 PISTOL. THEY FORCED MR. HALE TO THE GROUND,

1 DUCK TAPES HIS FEET AND HANDS TOGETHER, TOOK
2 WHAT CASH HE HAD ON HIS PERSON FROM HIM AT THAT
3 TIME, ALSO TOOK HIS WALLET, REMOVED HIS ATM
4 CARD, FORCED HIM TO TELL THEM HIS PIN NUMBER TO
5 THE ATM CARD. MR. CORBETT AND MS. SMITH DROVE
6 TO AN ATM MACHINE AND MR. CORBETT WENT UP TO THE
7 MACHINE AND AFTER HAVING TO GO BACK TO GET
8 ANOTHER PIN NUMBER, APPARENTLY THERE WAS SOME
9 CONFUSION, BUT ULTIMATELY THEY WERE ABLE TO USE
10 HIS ATM CARD AND OBTAIN MONEY FROM HIS ACCOUNT
11 WITHDRAWING A SIZABLE AMOUNT OF CASH. THEY
12 RETURNED TO THE APARTMENT. THEY REMAINED IN THE
13 APARTMENT FOR A PERIOD OF TIME WATCHING A MOVIE,
14 SMOKING MARIJUANA, EATING SOME FOOD. AND AT
15 SOME POINT IN TIME THEY RANSACKED THE VICTIM LEE
16 HALE'S DODGE DURANGO, WHICH WAS PARKED
17 DOWNSTAIRS, TAKING FROM IT VARIOUS ITEMS CD'S
18 FROM THE INTERIOR OF THE CAR. THEY TOOK MR.
19 HALE DOWN TO HIS CAR AND ALONG WITH KATIE
20 SMITH'S CAR TELLING MR. HALE THAT WHAT THEY WERE
21 GOING TO DO WAS DROP HIM OFF IN SOME REMOTE
22 AREA, LEAVING HIS CAR APPROXIMATELY FIVE MILES
23 FROM HIM, OR SOME DISTANCE FROM HIM, SO THAT HE
24 COULD WALK BACK TO HIS CAR GIVING THEM
25 SUFFICIENT TIME TO MAKE AN ESCAPE. EVENTUALLY

1 THE DURANGO WAS IN OVERDRIVE AND OVERHEATED ON
2 INTERSTATE 485 ON THE WAY INTO YORK COUNTY AND
3 WAS, HAD TO BE LEFT BY THE SIDE OF THE ROAD.
4 THEY ALL GOT IN KATIE SMITH'S CAR AND MR.
5 CORBETT KNEW OF THE LOCATION HAVING PREVIOUSLY
6 LIVED IN YORK COUNTY NEAR MCCONNELLS OFF OF
7 GARVIN ROAD IN THE COUNTY OF YORK AND HE
8 DIRECTED KATIE TO DRIVE TO THIS REMOTE LOCATION
9 WHICH IS NEAR A HUNT CLUB.

10 AT THAT POINT IN TIME, OF COURSE, EVERYTHING
11 THAT I'VE DESCRIBED UP TO THIS POINT HAD TAKEN
12 PLACE IN CHARLOTTE AND WE WOULD NOT HAVE
13 JURISDICTION OVER THOSE OFFENSES, BUT THE MINUTE
14 THEY CROSSED INTO YORK COUNTY THEY WERE STILL
15 ACTING IN CONCERT, THEY WERE ALL TOGETHER
16 WORKING TOWARD THE SAME COMMON PURPOSES, AND
17 RESTRAINING MR. HALE AT THAT POINT, SO AT THAT
18 POINT THERE FORMED THE LEGAL BASIS FOR A
19 KIDNAPPING CHARGE IN YORK COUNTY IN SOUTH
20 CAROLINA. WHEN THEY ARRIVED AT GARVIN ROAD MR.
21 CORBETT AND MISS JONES, JESSICA JONES, EXITED
22 THE VEHICLE AND DIRECTED THE OTHER OCCUPANTS OF
23 THE VEHICLE TO DRIVE SOME DISTANCE DOWN THE
24 ROADWAY AND COME BACK IN APPROXIMATELY FIVE
25 MINUTES. WHEN THEY CAME BACK MR. CORBETT WAS

1 STANDING BY THE SIDE OF THE ROAD, HE TOLD THEM
2 HE NEEDED A KNIFE TO CUT THE DUCK TAPE OFF OF
3 MR. HALE'S HANDS BECAUSE APPARENTLY IT HAD THEIR
4 FINGERPRINTS ON THE DUCK TAPE, THEY WERE
5 CONCERNED IT HAD FINGERPRINTS ON IT, AND A KNIFE
6 WAS HANDED TO HIM FROM THE INTERIOR OF THE CAR.
7 HE TOLD THEM TO COME BACK IN ABOUT TWO MINUTES
8 OR SO AND HE WALKED BACK INTO THE WOODS AND WHEN
9 THEY CAME BACK MISS JONES AND MR. CORBETT
10 ENTERED THE CAR AND THEY DROVE BACK TO CHARLOTTE
11 TO THE APARTMENT OF KATIE SMITH. SOME SEVERAL
12 DAYS LATER WHILE INSPECTING THE PROPERTY JOHN
13 WILLIAMS, WITH THE FORENSIC SERVICES UNIT IN THE
14 SHERIFF'S DEPARTMENT, WAS ACTUALLY ON HUNT CLUB
15 PROPERTY AND HE CAME UPON THE BODY OF MR. HALE.
16 HE, OF COURSE, CALLED THE SHERIFF'S DEPARTMENT,
17 THE SCENE WAS SECURED, MR. HALE'S BODY WAS TAKEN
18 TO THE PIEDMONT MEDICAL CENTER AND AN AUTOPSY
19 WAS PERFORMED ON HIM. IT WAS DETERMINED THAT HE
20 HAD DIED FROM SEVERAL GUNSHOTS WOUNDS TO THE
21 HEAD WITH THE .25 CALIBER PISTOL.

22 AFTER SOME INVESTIGATION INCLUDING THE ATM
23 MACHINE AND USING THE CELL PHONE RECORDS OF MR.
24 HALE TO DETERMINE WHO HAD CALLED HIM AND WHERE
25 HE MIGHT HAVE BEEN, THEY WERE ABLE TO DETERMINE

1 THAT THE PERSON IN THE VEHICLE FROM THE ATM, THE
2 PHOTOGRAPH FROM THE ATM MACHINE SHOWED MR.
3 CORBETT WALKING UP TO THE ATM MACHINE, AND KATIE
4 SMITH'S CAR BEHIND HIM PARKED IN THE PARKING
5 LOT. THEY WERE ABLE TO ULTIMATELY IDENTIFY
6 KATIE SMITH AS THE OCCUPANT OF THE VEHICLE.
7 THEY STARTED, OF COURSE, AT THIS POINT IT WAS
8 WELL KNOWN, IT HAD BEEN PUT IN THE NEWSPAPERS
9 THAT A BODY HAD BEEN FOUND, AND SO THE
10 DEFENDANTS WERE ALERTED TO THE FACT THAT MR.
11 HALE HAD BEEN FOUND. KATIE SMITH WAS ULTIMATELY
12 INTERVIEWED AND SHE GAVE A FULL CONFESSION. I
13 HAVE A COPY OF IT HERE. SHE IS NOT PLEADING
14 TODAY. SHE IS REPRESENTED BY MR. LELAND
15 GREELEY, WHO IS ILL, BUT SHE GAVE A STATEMENT
16 WHICH I WOULD ASK TO BE MADE PART OF THE COURT'S
17 RECORD FOR THE COURT'S CONSIDERATION. IT WAS
18 BASED ON THIS STATEMENT THAT THEY WERE ABLE TO
19 DETERMINE THAT, WHAT HAD HAPPENED TO MR. HALE
20 THAT DAY. ARREST WARRANTS WERE ISSUED FOR MR.
21 CORBETT AND HILLARY ROSENDALL, JOSH CLAYTON,
22 KATIE SMITH, AND JESSICA JONES.

23 THEY WERE AWARE THAT KATIE SMITH HAD BEEN, THAT
24 THE POLICE WERE NOW LOOKING FOR THEM. A FRIEND
25 OF THEIRS JASON KEYE ASSISTED THEM IN FLEEING

1 NORTH CAROLINA FOR ATLANTA. ULTIMATELY THEY
2 ENDED UP IN EL PASO, TEXAS, WHERE THE POLICE
3 LEARNED THEY WERE BASED ON A TELEPHONE CALL THAT
4 THEY MADE BACK TO A RELATIVE. THEY WERE ABLE TO
5 WITH THE ASSISTANCE OF THE AUTHORITIES IN EL
6 PASO LOCATE THE DEFENDANTS AT A NIGHTCLUB IN EL
7 PASO. ALL OF THEM WERE APPREHENDED AND UPON HIS
8 APPREHENSION MR. CORBETT GAVE A STATEMENT TO
9 DETECTIVE CHAVARRIA WITH THE EL PASO POLICE. I
10 HAVE THE ORIGINAL OF THAT STATEMENT AND I WOULD
11 ASK A COPY OF WHICH HAS BEEN PROVIDED ALONG WITH
12 THE MIRANDA WARNING TO, A COPY OF WHICH WAS
13 PROVIDED PREVIOUSLY TO MR. D'AGOSTINO AND I
14 WOULD ASK THAT THAT BE MADE A PART OF THE
15 COURT'S RECORD SO WE CAN EXAMINE THAT AS WELL AS
16 A FIVE PAGE STATEMENT THAT WAS SUBSEQUENTLY
17 TAKEN FROM MR. CORBETT BY LIEUTENANT HAGER WHO
18 FLEW OUT TO EL PASO AND DID A SECOND INTERVIEW.
19 OF COURSE, HIS KNOWLEDGE OF THE CASE AND THE
20 FACTS WAS MORE EXTENSIVE SO HE WAS ABLE TO BE
21 MORE THOROUGH AND DETAIL INTERROGATION OR
22 INTERVIEW OF MR. CORBETT. HE ULTIMATELY GAVE A
23 STATEMENT TO LIEUTENANT HAGER AS WELL, AND I
24 THINK IT'S IMPORTANT FOR THE COURT TO CONSIDER
25 ALL OF THESE STATEMENTS IN FASHIONING THE

1 SENTENCES. I WOULD ASK EACH ONE OF THESE BE
2 MADE PART OF THE COURT'S RECORD AS WELL.

3 THE COURT: BEFORE I DO THAT, ANY
4 OBJECTION, MR. D'AGOSTINO?

5 MR. D'AGOSTINO: JUST, I DON'T BELIEVE
6 THERE IS GOING TO BE ANY OBJECTION. I JUST WANT
7 TO MAKE SURE I KNOW WHAT'S BEEN HANDED UP.

8 MR. BRACKETT: THIS STATEMENT WAS GIVEN IN
9 YORK COUNTY NOT IN EL PASO.

10 MR. D'AGOSTINO: THAT'S WHAT I DIDN'T
11 UNDERSTAND. THERE WAS ONE GIVEN IN EL PASO
12 TEXAS AND THERE WAS ONE GIVEN EIGHT DAYS LATER
13 IN YORK COUNTY. I'M FAMILIAR WITH BOTH OF THEM.
14 I JUST DIDN'T KNOW WHAT HE MEANT BY THE SECOND
15 ONE IN EL PASO.

16 (STATE'S EXHIBIT 1-3 STATEMENTS RECEIVED INTO
17 EVIDENCE AND HANDED TO THE COURT.)

18 THE COURT: THANK YOU.

19 MR. BRACKETT: YES, SIR. ULTIMATELY MR.
20 CORBETT WAS RETURNED BACK TO THE STATE OF SOUTH
21 CAROLINA AND CHARGED WITH THESE OFFENSES.

22 THE COURT: MR. CORBETT, YOU AGREE WITH
23 THOSE FACTS?

24 MR. CORBETT: YES, SIR, I DO.

25 THE COURT: MR. D'AGOSTINO, BASED ON YOUR

1 INTERVIEWS WITH YOUR CLIENT AND OTHER, YOUR
2 DISCOVERY, DO YOU AGREE THAT THOSE ARE THE FACTS
3 THE STATE WOULD PRESENT AT A TRIAL?

4 MR. D'AGOSTINO: YOUR HONOR, THOSE ARE THE
5 SUBSTANTIVE FACTS THE STATE WOULD PRESENT AT
6 TRIAL. I WOULD REQUEST THE COURT TO LOOK AT MR.
7 CORBETT'S STATEMENTS THAT HE GAVE ON THE 20 AND
8 THE 28 BECAUSE HE SPECIFICALLY GOES INTO MORE
9 DETAIL AND SPECIFICALLY IDENTIFIES AND SETS
10 FORTH THAT HE WAS NOT THE ONE THAT DID ANY OF
11 THE SHOOTING, THAT'S BEEN HIS CONSISTENT
12 POSITION EVER SINCE, AND HE, BUT I DO WANT THE
13 COURT TO GET A MORE, TO GET A MORE THOROUGH
14 UNDERSTANDING AS TO MY CLIENT'S INVOLVEMENT AND
15 WHAT HIS UNDERSTANDING WHAT WAS GOING TO HAPPEN
16 AND WHAT DID HAPPENED IS SET FORTH IN HIS
17 STATEMENT AND OF COURSE I'LL GO INTO THAT A
18 LITTLE MORE LATER ON; BUT THERE IS A SUBSTANTIAL
19 BASIS FOR THE PLEA, YOUR HONOR, AND THOSE ARE
20 THE BASIC FACTS.

21 THE COURT: ALL RIGHT. WE ARE TAKING
22 SEVERAL TODAY, SEVERAL PLEAS REGARDING THIS SAME
23 INCIDENT, DO YOU WISH TO GO FORWARD WITH HEARING
24 FROM, SHOULD I GO AHEAD AND HEAR FROM MR.
25 CORBETT AND HIS COUNSEL ON HIS BEHALF AT THIS

1 TIME?

2 MR. BRACKETT: YES, SIR, I THINK THAT IS
3 THE WAY WE HAVE ARRANGED IT. MR. D'AGOSTINO AT
4 THE CONCLUSION OF THE STATE WHEN THE FAMILY
5 COMES UP, I TOLD THEM IF THEY HAD ANYTHING THEY
6 WANTED TO ADD IN REPLY TO WHAT THE STATE, WHEN
7 THE VICTIM COMES FORWARD.

8 THE COURT: MR. CORBETT, AT THIS TIME I
9 WILL BE GLAD TO HEAR FROM YOUR ATTORNEY AND THEN
10 YOU AND ANYONE ON YOUR BEHALF. I WOULD LIKE
11 THEM TO COME UP ONE AT A TIME BECAUSE WE'VE GOT
12 SO MANY PEOPLE HERE.

13 MR. D'AGOSTINO: I JUST HAVE TWO. I DIDN'T
14 WANT TO BRING.

15 THE COURT: I THINK THAT WILL BE FINE.

16 MR. D'AGOSTINO: YOUR HONOR, THIS IS
17 PATRICIA PARDUE AND DAVID PARDUE JAMES CORBETT'S
18 MOTHER AND HIS STEPFATHER. I'LL LET EACH ONE OF
19 THEM SPEAK FOR A FEW MINUTES AND I'LL ADDRESS
20 THE COURT AT THAT TIME.

21 THE COURT: MRS. PARDUE.

22 MRS. PARDUE: YOUR HONOR, JAMIE DONE A LOT
23 OF THINGS BUT HE'S NOT A VIOLENT PERSON. I
24 DON'T THINK HE WOULD EVER DO ANYTHING TO HARM
25 ANYBODY.

1 THE COURT: THANK YOU. MR. PARDUE, DO YOU
2 WANT TO SAY ANYTHING?

3 MR. PARDUE: YES, SIR. FIRST OF ALL MY
4 HEART GOES OUT TO MR. HALE'S FAMILY. MY HEART
5 ALSO GOES OUT TO JAMIE. I'VE KNOWN HIM SINCE HE
6 WAS TWO YEARS OLD. I'M NOT HIS BIOLOGICAL
7 FATHER, BUT HE'S ALWAYS BEEN A GENTLE AND LOVING
8 PERSON AND FOR ME TO BE STANDING HERE PLEADING
9 FOR HIM IN A CASE OF THIS MAGNITUDE IS, JUST
10 BAFFLES ME. I JUST DON'T UNDERSTAND IT. I'M
11 GOING TO SUPPORT HIM NO MATTER WHAT. I JUST
12 WANTED TO LET YOU KNOW WHAT TYPE PERSON THAT I
13 KNOW THAT JAMIE IS.

14 THE COURT: THANK YOU.

15 MR. PARDUE: YES, SIR.

16 MR. D'AGOSTINO: YOUR HONOR, AS YOU KNOW
17 JAMIE IS 26 YEARS OLD. HE GOT HIS GED. HE'S
18 HAD SOME RUN-INS WITH THE LAW. HE WENT THROUGH
19 10TH GRADE IN SCHOOL. AND HE'S KNOWN DAVID
20 PARDUE, HIS FATHER, DAVID PARDUE HAS KNOWN HIM
21 SINCE HE WAS TWO YEARS OF AGE. JAMIE IS THE
22 ONLY CHILD OF HIS MOTHER AND HIS FATHER. HIS
23 BIOLOGICAL FATHER LIVES IN COLUMBIA AND HE
24 HASN'T SEEN HIS BIOLOGICAL FATHER IN YEARS. I
25 BELIEVE HE SAW HIS BIOLOGICAL FATHER BRIEFLY

1 WHILE THEY WERE IN JAIL TOGETHER AT SOME POINT
2 IN TIME AND YOU HEARD ABOUT HIS RECORD AND I
3 THINK THAT'S ABOUT IT. SO HE'S HAD A TROUBLED
4 YOUTH. HE WENT TO PUBLIC SCHOOLS THROUGH THE
5 TENTH GRADE. AND HE DOES HAVE A CHILD, A TWO
6 YEAR OLD CHILD. YOU'VE HEARD ABOUT HIS RECORD.
7 AND I KNOW THAT BURGLARY, ONE OF THOSE
8 BURGLARIES, WAS A CLASSIFIED AS A VIOLENT
9 OFFENSE, BUT WITH ALL OF HIS, WITH THOSE CHARGES
10 YOU SEE THAT HE DOESN'T HAVE CRIMES AGAINST
11 WHERE HE'S BEATEN PEOPLE UP OR DOING THINGS OF
12 THAT NATURE AND I'M GLAD THE SOLICITOR'S OFFICE
13 HAS PUT THE STATEMENTS THAT JAMIE GAVE AS SOON
14 AS HE WAS ARRESTED TO THE COURT.

15 THE STATEMENTS GO THROUGH THE FACT THAT JAMIE
16 AND HIS FRIENDS, THE PEOPLE HE HAS RUNNING WITH
17 AT THE TIME, AND THE VICTIM AND HIS FRIENDS WERE
18 ALL FRIENDS AT ONE TIME. IT WAS A BIG GROUP OF
19 PEOPLE AND THEY WERE DOING THINGS AND THEY HAD A
20 SPLIT AND THEY HAD FALLING OUT AND THEN THEY
21 STARTED DOING THINGS TO EACH OTHER AND THINGS
22 JUST KEPT ESCALATING AND THINGS SHOULD HAVE
23 STOPPED LONG BEFORE THEY EVER GOT HERE. JAMIE
24 IS REGRETFUL. HE KNOWS THAT HE KNOWS BETTER.
25 HE SHOULDN'T, HE SHOULDN'T BE HERE. HE IS HERE.

1 HE SHOULDN'T BE HERE BECAUSE HE SHOULDN'T HAVE
2 DONE WHAT HE DID AND HE KNOWS WHAT HE DID WAS
3 WRONG AND HE IS REGRETFUL AND REMORSEFUL FOR
4 WHAT HE DID.

5 HE CONSIDERED ALL THE VARIOUS OPTIONS. HE GAVE
6 A STATEMENT AS TO HIS INVOLVEMENT, WHAT HE DID,
7 THE FACT THAT HE DID NOT INTEND FOR LEE TO GET
8 MURDERED. HE DID NOT INTEND FOR LEE TO GET
9 SHOT. HE GAVE A STATEMENT TO THAT EFFECT ON THE
10 DAY THAT HE WAS ARRESTED AND HE GAVE A
11 SUBSEQUENT STATEMENT 8 DAYS LATER WHILE HE WAS
12 IN YORK COUNTY TO WAIVE EXTRADITION. HE'S
13 COMING FORWARD AND HE'S TAKING RESPONSIBILITY
14 FOR WHAT HE DID. AND HE'S TAKING, AND HE KNOWS
15 THE COURT CAN GIVE ANYWHERE FROM 30 YEARS TO
16 LIFE ON THIS SENTENCE AND GET 30 YEARS ON THE
17 KIDNAPPING. HE DOESN'T WANT TO PUT THE FAMILY
18 THROUGH A TRIAL, THE VICTIM'S FAMILY. HE
19 DOESN'T WANT TO PUT THE STATE THROUGH A TRIAL.
20 WHAT HE DOES ASK OF THE COURT IS IF THE COURT
21 CAN SHOW SOME MERCY AND NOT GIVE HIM A LIFE
22 SENTENCE. GIVE HIM SOMETHING LESS THAN A LIFE
23 SENTENCE. HE DID GET A GED WHILE HE'S SERVING
24 ONE OF THOSE SENTENCES. HE HAS THE POTENTIAL.
25 EVEN IF HE GOT 30 YEARS AT HIS AGE RIGHT NOW,

1 HE'D BE IN HIS LATE 50'S WHEN HE GOT OUT OF
2 JAIL. IF THE COURT WERE TO GIVE HIM 60 YEARS, I
3 MEAN, 40 YEARS, HE'D BE IN HIS 60'S AND CLEARLY
4 AT LEAST BECAUSE HE'S COME FORWARD, WE KNOW IT'S
5 A HORRIBLE, IT'S A SHALL HORRIBLE SITUATION, A
6 LIFE WAS LOST. WE KNOW THAT AND JAMIE KNOWS
7 THAT. BUT HE WANTS TO END THE PAIN AND
8 SUFFERING FOR EVERYONE AS QUICKLY AS POSSIBLE
9 AND THAT'S WHAT HE'S DOING BY PLEADING AND THERE
10 IS NO NEGOTIATIONS. THE ONLY THING THAT'S BEEN
11 DONE IS THERE WAS A DIRECT INDICTMENT FOR
12 CONSPIRACY TO COMMIT KIDNAPPING THAT THEY
13 DROPPED THAT THEY ARE NOT GOING TO PURSUE. BUT
14 WE DO ASK FOR THE COURT'S MERCY AND THAT'S ALL
15 WE CAN ASK FOR AND ASK FOR FORGIVENESS. I THINK
16 MR. CORBETT WOULD LIKE TO ADDRESS THE COURT.

17 THE COURT: MR. CORBETT.

18 MR. CORBETT: YES, SIR. RIGHT BEFORE ALL
19 THIS HAPPENED THINGS REALLY GOT WELL OUT OF
20 CONTROL. AT THE IMMEDIATE TIME WHEN EVERYTHING
21 STARTED IN CHARLOTTE I AGREED TO ROB HIM. IT
22 WAS, IT WASN'T JUST ANY ONE PERSON'S IDEA. A
23 COUPLE OF DIFFERENT PEOPLE TALKED ABOUT IT. THE
24 ULTIMATE DECISION WAS MADE. THERE WAS NOTHING I
25 COULD DO TO CHANGE THAT. WHEN WE WERE IN SOUTH

1 CAROLINA ON GARVIN ROAD I DIDN'T -- I DIDN'T
2 WANT HIM TO DIE. A LOT OF THINGS I'VE DONE I
3 KNOW THEY WERE WRONG. I DIDN'T SHOOT HIM. I
4 WAS THERE. THAT MAKES ME WRONG. (CRYING.) BUT
5 THAT'S WHY I'M PLEADING GUILTY. I MEAN MY
6 INVOLVEMENT IN IT WAS WRONG. I KNOW IT WAS
7 WRONG. I REALLY AM SORRY FOR IT. IF THERE WAS
8 ANYTHING I COULD DO TO CHANGE IT I WOULD, NOT
9 JUST BECAUSE WE'RE ALL LOCKED UP. I MEAN,
10 UNFORTUNATELY SOMEBODY DIED THAT NIGHT. AND I
11 DON'T KNOW WHO THE FAMILY IS BUT I'M SORRY.

12 MR. D'AGOSTINO: YOUR HONOR, I THINK THAT'S
13 ALL HE CAN SAY. THANK YOU FOR LISTENING.

14 THE COURT: ALL RIGHT. MR. CORBETT, STEP
15 ASIDE, WE'LL WAIT, AND DO THE SENTENCING AFTER
16 WE'VE TAKEN EVERYBODY.

17 (END OF PROCEEDINGS AT THIS TIME.)

18 (THE GUILTY PLEAS OF JASON KEYE, HILLARY
19 ROSENDALL, AND JOSHUA CLAYTON ARE ENTERED
20 SEPARATELY. THE FOLLOWING IS AN EXCERPT OF
21 JOSHUA CLAYTON'S PLEA WHEREIN THE SOLICITOR AND
22 VICTIMS SPEAK AND IMMEDIATELY FOLLOWING THAT
23 RECITATION THE SENTENCE IS IMPOSED FOR JAMES
24 CORBETT.)

25 THE COURT: MR. BRACKETT, ANYTHING ELSE

1 FROM THE STATE. I KNOW YOU WANT TO BRING THE
2 VICTIMS. I'LL BE GLAD TO HEAR FROM THEM AT THIS
3 POINT.

4 MR. BRACKETT: THE MAJORITY OF PEOPLE
5 SEATED ON THIS SIDE OF THE COURTROOM EXCEPT FOR
6 THE THREE GENTLEMEN ON THE BACK ROW ARE ALL WITH
7 THE FAMILY OF MR. HALE. THEY ARE ALL THE FAMILY
8 OF MR. HALE AND THERE ARE FIVE MEMBERS OF MR.
9 HALE'S FAMILY THAT WISH TO ADDRESS THE COURT.

10 THE COURT: CERTAINLY. IF YOU'LL COME
11 FORWARD.

12 MR. BRACKETT: THIS IS MRS. ELEANOR HALE
13 AND SHE IS THE GRANDMOTHER.

14 MRS. HALE: YOUR HONOR, I AM THE PATERNAL
15 NATURAL GRANDMOTHER OF LEE HALE. TODAY WE HAVE
16 HEARD FROM ALL OF THE PERPETRATORS OF THIS CRIME
17 AND THERE HAS BEEN NO MENTION SO FAR OF THE
18 VICTIM. HE WAS A 21-YEAR-OLD BOY JUST BECOMING
19 A MAN AND HE HAD HAD A LIFE AS HARD OR HARDER
20 PROBABLY THAN ANY OF THESE BOYS. HE HAD HAD--
21 OR GIRLS. HE HAD MENINGITIS AND ENCEPHALITIS AT
22 THE SAME TIME WHEN HE WAS THREE YEARS OLD AND HE
23 HAD A REALLY TOUGH TIME AND HE PERSEVERED AND HE
24 FINISHED HIGH SCHOOL AND WE WERE VERY, VERY
25 PROUD OF HIM. THERE HAS BEEN MORE LOVE AND TIME

1 POURED INTO THE RAISING AND THE GROWING UP OF
2 LEE HALE THAN YOU'LL EVER KNOW AND IT IS A
3 TRAGEDY THAT THESE YOUNG PEOPLE JUST REALLY
4 THOUGHT, FOR THE HECK OF IT, DECIDED THAT THEY
5 WOULD ROB HIM, KIDNAP HIM, AND MURDER HIM. AND
6 WHEN MY SON TOLD ME THAT THERE WERE THREE GIRLS
7 INVOLVED, I JUST COULD NOT BELIEVE IT. I JUST
8 COULDN'T BELIEVE IT. AND THE FACT THAT THEY,
9 THAT NOT ONE OF THE FIVE EVER SAID, THIS IS
10 WRONG, WE SHOULDN'T BE DOING THIS, IT JUST TELLS
11 ME SOMETHING ABOUT ALL OF THEM. AND I HOPE THAT
12 YOU WILL BE FAIR IN YOUR JUDGMENT, BUT I HOPE
13 YOU WON'T BE TOO LENIENT WITH THEM BECAUSE THEY
14 HAVE REALLY CAUSED A TRAGEDY IN OUR FAMILY AND
15 THEIR OWN FAMILIES.

16 THE COURT: THANK YOU. YES, SIR.

17 MR. HALE: YEAH. I'M JOE HALE, THE FATHER,
18 AND I'D JUST LIKE TO SAY THAT WHAT THEY'VE DONE
19 IS A HORRIBLE THING. AND WHEN WE FOUND OUT
20 ABOUT THE PLEA DEAL, WE WENT WITH IT ONLY
21 BECAUSE WE DIDN'T WANT TO SEE THEM WALK AND WE
22 FELT LIKE IT WASN'T NEAR ENOUGH FOR WHAT THEY
23 HAD DONE. AND EVERYONE HAS ASKED FOR MERCY AND
24 LENIENCY AND THERE WAS NO MERCY FOR MY BOY. AND
25 I WOULD LIKE TO MAKE SURE THAT THERE IS, THAT

1 THEY WILL NEVER BE WHAT HE GOT THEY WILL NEVER
2 GET AND THAT IS WHAT I WOULD REALLY LIKE, BUT
3 IT'S NOT ABLE TO WORK THAT WAY AND I WOULD LIKE
4 TO SEE THAT THEY GET AS STIFF A SENTENCE AS THEY
5 CAN GET. THAT'S ALL I HAVE TO SAY.

6 THE COURT: THANK YOU SIR. YES, SIR.

7 MR. HALE: I'M MICHAEL HALE. I'M LEE'S
8 BROTHER. I'M GOING TO MISS MY BROTHER. I MEAN,
9 HE WAS 21. WE NEVER HAD A LIFE TOGETHER. I
10 MEAN, AS BROTHERS, HAVING FUN, YOU KNOW, BEING
11 KIDS. THEN AS A YOUNGER BROTHER AND UNDER THE
12 CIRCUMSTANCES AS AN ADULT I NEVER GOT TO HAVE
13 ANY OF THAT. NOW I'M JUST ALL BY MYSELF WITH MY
14 PARENTS. I JUST FEEL LIKE IT WAS, IT WAS STOLEN
15 FROM ME, STOLEN FROM EVERYBODY. IT WASN'T
16 RIGHT. THAT'S ALL I HAVE TO SAY.

17 THE COURT: THANK YOU.

18 MR. BRACKETT: MARK AND BEVERLY RUFF AND
19 RANDY RUFF.

20 MR. RUFF: I'M MARK. I'M LEE'S UNCLE. ALL
21 I CAN SAY IS THAT SOMETIMES YOU HANG OUT WITH
22 THE WRONG CROWD. THEY ARE THE WRONG CROWD.
23 SOMETIMES YOU MEET SOME BAD PEOPLE. THEY ARE
24 SOME BAD PEOPLE. AND THEY ARE GOING TO GO TO
25 JAIL. THEIR PARENTS ARE GOING TO BE ABLE TO

1 VISIT THEM AND EVERYTHING IN JAIL AND ONE DAY
2 THEY ARE GOING TO BE ABLE TO WALK OUT AND THEY
3 ARE GOING TO BE 40-SOMETHING. I'M 40-SOMETHING.
4 I FEEL LIKE I GOT A LONG LIFE LEFT TO GO AND
5 LEE'S NOT GOING TO HAVE THAT. ALL I'VE GOT IS A
6 MEMORY OF HIM ON MY SON'S GO CART TRACK. THAT'S
7 ALL I GOT TO SAY.

8 THE COURT: THANK YOU.

9 MRS. RUFF: I'M BEVERLY RUFF. I'M LEE'S
10 AUNT. I THINK THE ONLY THING I WANT TO SAY IS
11 THAT THEY LET LEE LAY OUT THERE UNTIL THEY
12 COULDN'T IDENTIFY THE BODY. WE NEVER GOT TO SEE
13 THE BODY AND HIS MOTHER AND HIS BROTHER AND HIS
14 FATHER ARE WAITING FOR PHONE CALLS BECAUSE THEY
15 ARE WAITING FOR LEE TO COME IN THAT DOOR. AND
16 BASICALLY LEE WAS A GOOD KID. HE MET THE WRONG
17 PEOPLE TOO. HE WAS A GOOD KID. AND THEY ARE
18 GOING TO WALK OUT AND NONE OF THEM SAID ANYTHING
19 ABOUT THIS WAS WRONG, BUT THEY LET HIM LAY OUT
20 THERE DEAD. THEY LET HIM LAY OUT THERE DEAD TO
21 WHERE WE COULDN'T SEE HIM. WE NEVER GOT TO SAY
22 GOODBYE. WE HAVE ASHES. THAT'S IT. ASHES.

23 THE COURT: THANK YOU. YES, SIR.

24 MR. RUFF: MY NAME IS RANDY RUFF. I'M
25 LEE'S UNCLE. LEE CAME TO CHARLOTTE, NORTH

1 CAROLINA, TO LIVE AND WORK WITH ME. WE THOUGHT
2 IT WOULD BE A SAFE PLACE FOR HIM TO LIVE, SAFE
3 PLACE FOR HIM TO BECOME A MAN. HE WORKED HARD.
4 HE WAS NOT UNEMPLOYED. HE WORKED FOR ME 15-16
5 HOURS A DAY AT TIMES. SO THERE WERE A LOT OF
6 THINGS ABOUT LEE THAT HE HAD. I'VE GOT
7 SOMETHING WRITTEN HERE. I'M NOT SURE I'M GOING
8 TO BE ABLE TO READ IT. I'M GOING TO TRY IF
9 EVERYBODY WILL JUST BE PATIENT.

10 THE COURT: CERTAINLY. TAKE YOUR TIME.

11 MR. RUFF: MY FAMILY AND I SIT HERE AND
12 WATCH THE EVENTS IN THIS COURTROOM. TO SOME
13 THIS IS THE COMPLETION OF A TRAGIC EVENT, BUT TO
14 MYSELF AND MY FAMILY IT IS MUCH MORE. SOMETHING
15 HAS BEEN TAKEN FROM US THAT CAN NEVER BE
16 REPLACED. LIFE IS SUCH A PRECIOUS GIFT AND ALL
17 TOO OFTEN IT'S TAKEN FOR GRANTED.

18 I RECALL A PRECIOUS CHILD SO FULL OF LOVE AND
19 LIFE THAT WOULD WADDLE ACROSS THE FLOOR AND FALL
20 IN MY ARMS. I WAS THERE WHEN LEE WAS BORN AND I
21 WAS THE LAST PERSON TO TALK TO HIM ALIVE. I
22 REMEMBER SO MANY THINGS ABOUT HIM AND WHAT
23 HAPPENED TO HIM WAS NOT DESERVED. IT WAS NOT
24 DESERVED.

25 A PERSON SO FULL OF LOVE AND KINDNESS. A YOUNG

1 MAN, WHEN MOST WERE SO CONSUMED WITH DESIRE TO
2 BE STRONG AND INDEPENDENT, DESIRED TO PROVE
3 HIMSELF TO THE WORLD, BUT HE STILL HAD TIME TO
4 TAKE A WALK WITH HIS DAR-DAR. THAT IS WHAT HE
5 CALLED HIS GRANDMOTHER. A YOUNG MAN WITH
6 KINDNESS AND LOVE IN HIS HEART -- THAT WAS LEE.
7 LEE WOULD HAVE BEEN 22 YEARS OLD TODAY, CARRYING
8 HIS BOOKS TO CLASS AT CPCC, AND PROBABLY RUNNING
9 LATE BECAUSE OF HIS CELL PHONE, TALKING TO HIS
10 CLOSE FRIEND OR GIRLFRIEND UNTIL HE REACHED THE
11 DOOR OF HIS FIRST CLASS; DISCUSSING THE EVENTS
12 OF THE WEEKEND OR PLANNING THE NEXT ONE. HE
13 ENJOYED BURNING THE TIME, HE ENJOYED BURNING UP
14 THE MINUTES ON HIS CELL PHONE, SHARING HIS
15 DREAMS FOR LIFE, ENJOYING THE COMPANY OF HIS
16 FAMILY AND FRIENDS. BUT LEE HAS NO MINUTES
17 LEFT. GOD GAVE LEE LIFE. HE GAVE HIM
18 COMPASSION. HE BLESSED HIM WITH TENDERNESS AND
19 IN A SENSE HE WAS CURSED TO BE A TRUSTING SOUL.
20 THAT PRECIOUS LIFE WAS TAKEN BY THESE PEOPLE
21 . STANDING BEFORE YOU TODAY. TO MYSELF AND THE
22 REST OF LEE'S FAMILY HIS LIFE WAS FAR TOO
23 PRECIOUS TO PUT A PRICE TAG ON IT, YET THESE
24 PEOPLE PUT A PRICE TAG ON LEE'S LIFE AT
25 APPROXIMATELY \$600. THESE PEOPLE TOOK FROM LEE

1 THE MONEY THAT HE WORKED FOR AND THE TRUST THAT
2 HE HELD FOR THEM AND DISCARDED HIM AS IF HE WAS
3 RUBBISH.

4 I'VE GONE TO THE WOODS AND STOOD IN THE SPOT
5 WHERE LEE WAS TAKEN BOUND AND AFRAID. EVEN IN
6 MY MIND THE FEAR AND PAIN THAT ENDURED IN THE
7 LAST HOURS AND MINUTES OF HIS LIFE. THE SPOT IN
8 WHICH THE GUN WAS RAISED AND THE CLICK OF THE
9 TRIGGER AND HIS LIFE WAS TAKEN AWAY, THREE SHOTS
10 TO THE HEAD. THIS IS WHAT I SEE EVERY DAY.
11 EVERY DAY I CLOSE MY EYES I SEE WHAT YOU DID TO
12 HIM. YOU'VE RUINED MY LIFE, THANK YOU, AND I'VE
13 NEVER MET YOU. THIS IS WHAT I SEE EVERY DAY --
14 THE GUN TO LEE'S FACE: THE FEAR, THE PAIN, THE
15 AGONIZING LAST HOURS AND MINUTES OF HIS PRECIOUS
16 LIFE, KIDNAPPED, ROBBED, TORTURED, AND
17 MURDERED. EACH AND EVERY ONE OF THOSE PEOPLE
18 WAS AWARE OF WHAT WAS HAPPENING. THERE WERE
19 HOURS, NOT MINUTES, IN WHICH ONE OF THEM COULD
20 HAVE MADE AN ATTEMPT TO STOP THIS TRAGEDY.
21 THERE WERE MANY OPPORTUNITIES. YET NONE OF
22 THESE PEOPLE MADE AN EFFORT TO SAVE LEE'S LIFE.
23 JOSEPH LEE HALE WENT THROUGH HELL THAT OCTOBER
24 NIGHT, TERRIFIED AND ALONE. HE DID NOT HAVE THE
25 OPPORTUNITY TO SAY GOODBYE TO HIS MOTHER OR HIS

1 FATHER OR HIS BROTHER. HE COULDN'T SAY I LOVE
2 YOU. THERE WAS NO TIME FOR LEE TO GIVE MICHAEL
3 ADVICE FROM A BIG BROTHER. NOT A MOMENT TO SAY
4 OR SMILE TO DAR-DAR. LEE HAD DREAMS AND DESIRES
5 JUST AS YOU AND I DO. YET HE WILL NEVER HAVE
6 THE OPPORTUNITY TO SEE THOSE DREAMS BECOME
7 REALITY.

8 YOUR HONOR, THE ONLY THING THAT WE HAVE LEFT
9 FROM LEE ARE MEMORIES AND HOW MUCH JOY HE'S
10 BROUGHT TO OUR LIVES. NOW OUR SUFFERING BECAUSE
11 HE'S BEEN TAKEN FROM US. WE MUST NOW LEAVE LEE
12 IN YOUR HANDS AND TRUST IN YOU THAT THESE PEOPLE
13 PLANNED, CARRIED OUT, AND EXECUTED JOSEPH LEE
14 HALE WILL PAY WITH THE MAXIMUM PENALTY ALLOWED
15 BY LAW.

16 THE COURT: THANK YOU.

17 MR. RUFF: THANK YOU.

18 MR. BRACKETT: YOUR HONOR, I HAVE A FEW
19 THINGS THAT I WOULD LIKE TO ADD PRIOR TO
20 SENTENCING, AND WHAT I'LL DO IS TAKE THEM IN
21 TURN STARTING WITH MR. CORBETT WHO PLEAD FIRST.
22 EACH OF THESE DEFENDANTS IS IN WHAT I PLACE THEM
23 IN TWO DIFFERENT CATEGORIES; MR. CORBETT AND
24 MISS JONES THE TWO WHO ACTUALLY WENT INTO THE
25 WOODS ARE GUILTY IN MY MIND AS PRINCIPAL FIRSTS.

1 THEY ARE THE ONES WHO ACTUALLY WENT INTO THE
2 WOODS AND ONE OF THEM, AND WE'LL NEVER KNOW WHO,
3 I'M SURE WHEN MISS JONES IS BROUGHT INTO THIS
4 COURTROOM WHETHER IT'S FOR A PLEA OR A TRIAL, IF
5 SHE TAKES THE STAND IN HER DEFENSE SHE'S GOING
6 TO POINT THE FINGER AT MR. CORBETT AND SAY HE'S
7 THE ONE THAT PULLED THE TRIGGER. I SUBMIT TO
8 THE COURT THAT IT DOESN'T MATTER. IT'S
9 IRRELEVANT WHO PULLED THE TRIGGER. WE'LL NEVER
10 KNOW, AND I'M UNWILLING TO ACCEPT THE WORDS OF
11 MR. CORBETT OR MISS JONES AS TO WHO THE ACTUAL
12 PERSON WHO PULLED THE TRIGGER BECAUSE I DON'T
13 THINK WE EVEN NEED TO GET TO THAT PORTION. IN
14 THE EYES OF THE LAW AS YOUR HONOR IS WELL AWARE,
15 IT DOESN'T MATTER WHICH ONE. THEY ARE BOTH
16 EQUALLY GUILTY OF MURDER. EVERYONE WHO IS
17 COMPLICITIOUS IN THE KIDNAPPING AND ABDUCTION OF
18 MR. HALE IS EQUALLY RESPONSIBLE AND THIS
19 INCLUDES MISS ROSENDALL AND MR. CLAYTON AS
20 PARTIES UNDER PARTY LIABILITY THEORY, THEY ARE
21 EQUALLY RESPONSIBLE FOR MURDER. NOW I'VE GIVEN
22 MR. CLAYTON AND MISS ROSENDALL SIGNIFICANT
23 CONSIDERATION IN DROPPING THE MURDER BECAUSE
24 THEY WOULD HAVE HAD TO HAVE GOTTEN THE MINIMUM
25 OF 30 YEARS UP TO LIFE UNDER THOSE

1 CIRCUMSTANCES. THEY DID STAY IN THE CAR, I KNOW
2 THAT THEY DID NOT PULL THE TRIGGER, BUT THAT
3 DOESN'T RELIEVE THEM OF THEIR LIABILITY UNDER
4 THE EYES OF THE LAW.

5 MR. CHIARENZA'S ARGUMENT WHICH WAS VERY CREATIVE
6 AND I GIVE HIM CREDIT FOR THAT, REGARDING THE
7 FLOOR AND THAT BECAUSE I GAVE A FLOOR OF 15
8 YEARS THAT THAT MIGHT SOMEWAY BE ACCEPTABLE TO
9 THE FAMILY AND TO THE STATE. WELL, I DIDN'T CAP
10 IT AT 25. I DIDN'T CAP IT AT 20. I CAPPED IT
11 AT 30. PERHAPS THAT'S WHAT IS ACCEPTABLE TO THE
12 STATE. I LEFT ENOUGH FLEXIBILITY AND YOUR HONOR
13 IS WELL AWARE OF THE GIVE AND TAKE OF THE
14 NEGOTIATIONS AND WHAT IT REQUIRES TO RESOLVE
15 THESE CASES BY GUILTY PLEA, I GIVE ENOUGH
16 LATITUDE IN THERE TO LET THEM ARGUE FOR LESSER
17 SENTENCE. EACH ONE OF THEM CONFESSED. YOU HAVE
18 THE CONFESSIONS IN FRONT OF YOU. I WOULD ASK
19 THE COURT TO CAREFULLY REVIEW THOSE CONFESSIONS
20 BEFORE FASHIONING YOUR SENTENCE. AND
21 PARTICULARLY THE ONE THING I WILL GIVE MR.
22 CLAYTON CREDIT FOR, HIS CONFESSION I SUBMIT AND
23 I'VE READ A LOT OF THEM IN MY NUMBER OF YEARS
24 PROSECUTING, HAS THE RING OF TRUTH TO IT BECAUSE
25 IT IS STARK AND IT IS RELENTLESS IN THAT IT

1 IMPLICATES HIMSELF EQUALLY. THE OTHER ONES ALL
2 HAVE AN ELEMENT OF SELF-SERVICE. I WAS FORCED.
3 I WAS COERCED. HIS STATEMENT GOES THROUGH AND
4 HAS HIM DOING AN ACTIVE PART OF THE CRIME,
5 WASHING THE BLOOD OFF THE PISTOL; HE WAS THERE.
6 HE DID WHAT HE DID. THEY SAT AROUND THE
7 APARTMENT AFTER THE MURDER AND SMOKED MARIJUANA
8 AND ATE PIZZA. IT JUST PAINTS A VERY STARK AND
9 BLEAK PICTURE OF THE CHARACTER OF THESE PEOPLE.
10 MISS ROSENDALL'S ARGUMENT REGARDING HER,
11 BASICALLY IT'S A QUASI-DURESS ARGUMENT. SHE
12 SAYS THAT SHE WAS FORCED INTO THIS OR SHE FELT
13 INTIMIDATED, BUT NOT TO THE EXTENT OF DURESS,
14 BUT THAT SHE FELT THAT SHE WAS KIND OF SUCKED
15 INTO IT. THE DISTANCE OF TIME BETWEEN MR.
16 HALE'S MURDER AND THEIR APPREHENSION WAS NEARLY
17 THREE WEEKS. IT'S STRANGE TO TRULY BELIEVE THAT
18 THREE WEEKS HAVE PASSED AND SHE COULD NOT FIND
19 ONE WAY TO GET AWAY TO ALERT AUTHORITIES OF WHAT
20 HAD GONE DOWN. AND THIS APPLIES TO MR. CLAYTON
21 AS WELL TO A CERTAIN EXTENT BECAUSE HAD THEY NOT
22 KNOWN TRULY THAT THIS WAS GOING TO TAKE PLACE,
23 THAT THEY INTENDED TO ACTUALLY KILL MR. HALE,
24 HAD THEY KNOWN THAT, THEN WHY DIDN'T THEY TAKE
25 THE FIRST OPPORTUNITY AND SAY, I'M NOT HAVING

1 ANYTHING TO DO WITH THIS. I'M GOING TO DISTANCE
2 MYSELF. I'M GETTING AWAY FROM THEM. THEY
3 DIDN'T. THEY ALL FLED TO TEXAS. THEY FLED TO
4 TEXAS TOGETHER.

5 THE GRAPHIC BRUTALITY OF THIS CRIME IS, THE
6 SENSELESSNESS OF IT I THINK IT SPEAKS VOLUMES
7 ABOUT WHAT THE APPROPRIATE SENTENCES SHOULD BE
8 IN THESE MATTERS. AND AGAIN I WOULD URGE YOU TO
9 CAREFULLY REVIEW THE STATEMENTS THAT THEY MADE.
10 IN SOME INSTANCES ONE STATEMENT MAY CONTRADICT
11 WHAT YOU HEARD HERE, THEY MAY CONTRADICT EACH
12 OTHER, BUT PARTICULARLY MR. CLAYTON'S I THINK
13 GIVES A VERY, I THINK THE CLEAREST AND MOST
14 ACCURATE PORTRAYAL OF WHAT ACTUALLY TOOK PLACE
15 THAT NIGHT AND I WOULD ASK YOU TO FASHION A
16 SENTENCE THAT SPEAKS TO THE HORROR OF THIS CRIME
17 AND TO THE GRIEF THAT IT HAS CAUSED THIS
18 FAMILY.

19 THE COURT: ALL RIGHT. I HAVE WHILE WE
20 WERE DOING THE, LISTENING TO THE RECITATION,
21 I'VE SKIMMED OVER THE STATEMENTS OF EACH. NOW
22 IF YOU'D LIKE TO BRING THE DEFENDANTS AROUND FOR
23 SENTENCING.

24 (ALL THE DEFENDANTS APPROACH THE BAR WITH THEIR
25 ATTORNEYS.)

1 THE COURT: MR. CORBETT, YOU HAVE PLEAD
2 GUILTY TO MURDER AND TO KIDNAPPING. THESE
3 SENTENCES ARE TO RUN CONCURRENT. THE KIDNAPPING
4 IS FOR 30 YEARS. THE MURDER IS FOR 40 YEARS AND
5 I SAID THOSE ARE TO RUN CONCURRENT. YOU
6 UNDERSTAND THAT?

7 MR. CORBETT: YES, YOUR HONOR.

8 (THE REST OF THE DEFENDANTS ARE SENTENCED.)

9 (THIS CONCLUDES THE PROCEEDINGS FOR MR.
10 CORBETT.)

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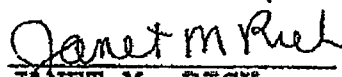
24

25

1 I, THE UNDERSIGNED JANET M. RICH, OFFICIAL COURT
2 REPORTER FOR THE 16TH JUDICIAL CIRCUIT OF THE
3 STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT
4 THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE
5 TRANSCRIPT OF RECORD OF ALL THE TESTIMONY HAD
6 AND EVIDENCE INTRODUCED IN THE TRIAL OF THE
7 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT
8 OF GENERAL SESSIONS FOR YORK COUNTY, SOUTH
9 CAROLINA, ON THE 10 OF APRIL, 2003.

10 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
11 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

12
13
14 JULY 8, 2004

15
16 
17 JANET M. RICH
18
19
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25

FORM 5

STATE OF SOUTH CAROLINA

CERTIFIED TRUE COPY

IN THE COURT OF COMMON PLEAS

County of

York

2009 MAR 25 PM 12:01

James Corbett #280660

Full name and prison number (if any) of Applicant

v

State of South Carolina

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

APPLICATION FOR

POST-CONVICTION RELIEF

DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

2009 MAR 24 PM 3:59

FILED-RECEIVED

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Corr. Inst. / B-X-8 / 430 Oaklawn Rd. / Pelzer, S.C. 29669
2. Name and location of Court which imposed sentence York County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Hillery Rosendall, Jessica Jones, Katherine Smith, Joshua Clayton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Count 1 - Murder

(b) Count 2 - Kidnapping

(c) _____

5 The date upon which sentence was imposed and the terms of the sentence:

(a) April 10, 2003 40 years

(b) April 10, 2003 30 years

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty yes

(b) after a plea of not guilty —

(c) after a plea of nolo contendere —

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. —

ii. —

iii. —

(b) the result in each such Court to which you appealed:

i. —

ii. —

iii. —

(c) the date of each such result:

i. —

ii. —

iii. —

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. —

ii. —

iii. —

9 If you answered Ano@ to (7), state your reasons for not so appealing:

(a) Counsel failed to file timely notice of appeal

- (b) _____
 (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Applicant has newly discovered evidence that shows
 (b) that he is innocent of the murder charge.
 (b)(d) Subject matter Jurisdiction (kidnapping charge)

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Applicant has a statement/letter from co-defendant, where
 (b) co-defendant admits committing the murder
 (b)(c) Applicant nor co-defendants did not kidnap any one in State of S.C.
and kidnapping occurred in state of N.C., so S.C. had no jurisdiction.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? —
 (d) any other petitions, motions or applications in this or any other Court? —

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. PCR for ineffective assistance of counsel
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. York County Court of Common Pleas
 ii. _____
 iii. _____

- IV. _____
- (c) the disposition thereof:
- i. dismissed
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. 2006
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

- (b) the proceedings in which each ground was raised.

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Just became aware of these grounds
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Daniel D'Agostino
York County
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea, Sentencing
- ii. _____
- iii. _____

19. State clearly the relief you seek in filing this application:

Sentence be vacated, or be given a new trial

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, James Corbett, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

[Signature]

SWORN to and subscribed before me this 19th
day of Dec 2008.

[Signature] (L.S.)
Notary Public

My Commission Expires: Jan 28, 2018

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, James Corbett, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true.

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this

19 day of Dec, 2008


Notary Public

My Commission Expires:

JAN 28, 2018

Dear Mr. Hamilton,

9-20-09

Enclosed please find a motion for Default Judgment, ~~motion~~^{Brief} in support of motion for Default Judgment, and Affidavit of military service, for filing in Case No. 2009CP4601289. Please file same and schedule a motion hearing ~~on~~ on this matter. Thanking you, I am,

Sincerely Yours,



James Corbett #280660
Perry C.I./D-Y-3
430 Oak Lawn Rd.
Pelzer, S.C. 29669

FILED-RECEIVED

2009 SEP 24 PM 12:19

DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

CC:

Office of Attorney General
File

STATE OF SOUTH CAROLINA

COUNTY OF York☒ Plaintiff James Corbett

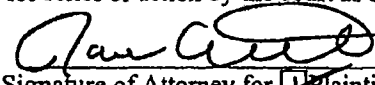
v.

State of South Carolina☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

09 - CP - 46 - 01289MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: <u>James Corbett #220660</u> , Bar No. <u>Perry C.I./D-Y-03</u> Address: <u>430 Oak Lawn Rd.</u> <u>Pelzer, S.C. 29669</u> phone: <u>Ø</u> fax: <u>Ø</u> e-mail: <u>Ø</u> other: <u>Ø</u>	Defendant's Attorney: <u>Office of Attorney General</u> , Bar No. <u>P.O. Box 11549</u> Address: <u>Columbia, S.C. 29211</u> phone: fax: e-mail: other:
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS II and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: <u>Motion for Default Judgment</u> Estimated Time Needed: <u>30 min</u> Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for ☒ Plaintiff / ☐ Defendant	
Date submitted <u>9-20-09</u>	
SECTION III: Motion Fee ☐ PAID - AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ Domestic Abuse or Abuse and Neglect ☒ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	
CLERK'S VERIFICATION Date Filed:	
Collected by: _____ ☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____	

State of South Carolina
County of York

James Corbett #280660,
Applicant,

v.

State of South Carolina,
Respondent

In the Court of Common Pleas

Case No.: 2009 CP 4601289

Notice of Motion and Motion for
Default Judgment

FILED-RECEIVED
2009 SEP 24 PM 12:19
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

To: Respondent:

Please take Notice, that Applicant moves this Honorable Court for an order entering Default against the Respondent, and applicant states as follows:

1. That the York County Clerk of Court served the Respondent, by mail, on March 25, 2009.
2. That as of 9-09 Respondent has failed to respond and defend in this action.
3. WHEREFORE, the Applicant prays that this Honorable Court enter Default against the Respondent for the relief demanded in the Complaint.

9-20-09
(DATE)


James Corbett #280660
Perry C.I. / D-4-3
430 Oaklawn Rd.
Pelzer, S.C. 29669

State of South Carolina
County of York

James Corbett #280660,
Applicant,

v.

State of South Carolina,
Respondent

In the Court of Common Pleas

Case No.: 2009CP4601389

BRIEF IN SUPPORT OF
MOTION FOR DEFAULT

FILED-RECEIVED
2009 SEP 24 PM 12:19
DAVID HAMILTON
C.C. & G.S.
YORK COUNTY, SC

Applicant is presently confined in the Perry Correctional Institution, of the South Carolina Dept. of Corrections (SCDC), as the result of convictions for murder (03-GS-46-1055) and kidnapping (03-GS-46-1056), which he was sentenced to concurrent sentences of forty years imprisonment for murder and thirty years imprisonment for ~~murder~~ kidnapping.

Applicant filed the present action on 3-24-09 in York County, challenging the convictions based on the grounds of "Newly discovered Evidence" and "Subject matter Jurisdiction".

The Respondent Failed to Answer, Respond, or otherwise defend the Applicant's Claims. As such, the Applicant's Claims must be viewed as true, since the Respondent did not refute Applicant's Claims.

The Applicant is entitled to the relief requested in the PCR application as a matter of law since

all of his claims must be viewed as true and factual. The state of South Carolina had no jurisdiction to convict and sentence the applicant for kidnapping because the kidnapping charge occurred in North Carolina and kidnapping is not a continuing offense. A person can only be charged from the point of abduction. The alleged point of abduction is Charlotte, N.C., therefore the State of South Carolina has no jurisdiction on the kidnapping offense. Further, Applicant has newly discovered evidence and testimony showing that he is not guilty of the murder charge. Such evidence and testimony at trial is sufficient to acquit the applicant of the alleged murder.

By not Answering, Responding, or otherwise defending this case, the Respondent has waived any right to ~~any~~ any defense and any time limit constraints in this action.

WHEREFORE, the applicant prays this Honorable Court enter Default Judgment against the Respondent and grant the applicant the relief requested.

9-20-09
(DATE)

James Corbett
James Corbett # ~~28660~~
Perry C.I. / D-Y-3
430 Oak Lawn Rd.
Pelzer, S.C. 29669

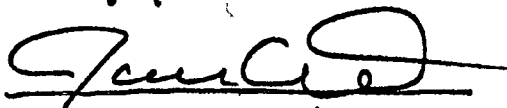
Dear Mr. Hamilton,

9-27-09

I recently sent to you a motion for Default to be filed in Case No.: 2009CP4601289. Please notify me of the date it was filed. Additionally, could you please forward a copy of the case file for case no.: 2009CP4601289 for my records? I greatly appreciate your time and assistance.

Thanking you, I remain,

Sincerely yours,



James Corbett #280660

Perry C.I. / D-Y-3

430 Oaklawn Rd.

Pelzer, S.C. 29669

FILED-RECEIVED
2009 OCT -1 AM 10:57
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

**CLERK OF COURT'S OFFICE***P.O. Box 649, York, South Carolina 29745*

October 1, 2009

James Corbett #280660
Perry Correctional Institute D-4-3
430 Oaklawn Road
Pelzer, South Carolina 29669

Dear Mr. Corbett:

The Clerk of Courts office is in receipt of your letter dated September 27, 2009. Please refer to the attached correspondence I sent you on September 30, 2009 regarding your Motion for Default Judgment. Your document was filed in the Clerk of Courts office on September 24, 2009, however as explained previously, all Motions must be scheduled directly through The Office of the Attorney General. I have enclosed a copy of all pleadings filed in your case with the exception of the PCR Application which has already been forwarded to you. Please note the Clerk's office will not be able to forward these documents to you again unless a fee of .40 cents per page is paid.

Sincerely,

Clerk of Court
Civil Division

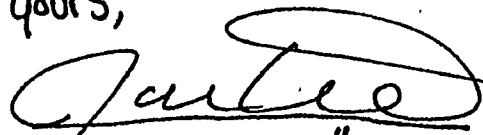
Re: 2009CP4601289
James Corbett vs State of S.C.

Dear Clerk,

10-14-09

I filed the above action on 3-24-09. Pursuant to Rule 12 SCRCP the state had 60 days to file it's response. It has now been approx. 200 days and the state still has not filed it's response. Therefore, pursuant to Rule 55 SCRCP, I ask that you enter the default upon the calendar (filebook). Additionally, please inform me of the date default is entered. Thanking you, I am,

Sincerely yours,



James Corbett #280660
Perry C.I./D-Y-3
430 Oaklawn Rd.
Pelzer, S.C. 29669

FILED - RECEIVED
2009 OCT 19 AM 11:09
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC



FILED-RECEIVED
2009 DEC 17 AM 8:46
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

HENRY McMASTER
ATTORNEY GENERAL

December 16, 2009

Mr. James Corbett, #280660
Perry Correctional Institution, D-Y-3
430 Oaklawn Road
Pelzer, SC 29669

Re: James Corbett, #280660 v. State of South Carolina
2009-CP-46-1289

Dear Mr. Corbett:

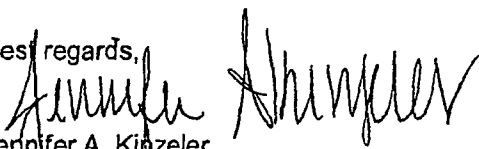
I am in receipt of your subpoena requesting discovery of Solicitor Brackett's entire case file from your General Sessions guilty plea. Please be advised that discovery is not permitted without a showing of good cause. SC Code Ann. §17-27-150(A) states:

A party in a non-capital post-conviction relief proceeding shall be entitled to invoke the process of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that, *the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise.* (emphasis added.)

Therefore, discovery is only available to an Applicant who files a motion and the judge grants such request. SC Code Ann. §17-27-150(A); See also, Hiott v. State, 381 S.C. 622, 674 S.E.2d 491 (2009)(reiterating the limited use of the discovery process in PCR cases).

I have nothing before me to indicate that a judge has granted leave for discovery; therefore I cannot address your request. Should you have any questions, please feel free to contact me at the number listed below.

Best regards,


Jennifer A. Kinzeler
Assistant Attorney General

cc: The Honorable John C. Hayes
David Hamilton, York County Clerk of Court
Kevin S. Brackett, Solicitor, Sixteenth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

James Corbett, #280660,

2009-CP-46-1289

Applicant,

v.

RETURN AND MOTION TO DISMISS

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed March 24, 2009, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2003 term of the York County Grand Jury for Murder (2003-GS-46-1055) and Kidnapping (2003-GS-46-1056). He was represented by Dan D'Agostino, Esquire. On April 10, 2003, the Applicant pled guilty to both charges as indicted. The Honorable John C. Hayes, III sentenced the Applicant to confinement for a period of forty (40) years for Murder and thirty (30) years, concurrent, for Kidnapping. The Applicant did not appeal his conviction or sentence.

2004-CP-46-0896

The Applicant filed his first application for post-conviction relief (PCR) on April 12, 2004. The Applicant alleged the following reason that he is being held in custody unlawfully:

1. "Counsel was ineffective by informing defendant that he would fall under the 85% law for violent offenders, when in fact defendant must serve 100% of his sentence because of the charge of murder."
2. "Counsel was ineffective by not having defendant evaluated by mental health to determine if he was mentally stable to stand trial or determine [defendant's] state of mind at the time the offense was committed; when in fact the defendant is and has been classified by mental health professionals as being mentally ill and having a long history of mental illness, dating back over 10 years."
3. "Counsel was ineffective by allowing defendant to plead guilty to a "conditional plea agreement" which both the State and counsel refused to put in writing because it was "under the table." Such pleas, at the time of entry of [my] plea, were/are illegal and counsel should have been aware of the fact."
4. "Counsel was ineffective by not ensuring that the "plea agreement" was enforced and all "promises." "
5. "State failed to meet all of the conditions of [the] plea agreement. Defendant entered a plea of guilty after an agreement was made between the Solicitor's office and defendant's counsel and defendant. As part of this "plea agreement" the State was supposed to fulfill certain promises/obligations after sentencing. However, after sentencing the State failed to hold up its end of the "agreement" which makes the plea invalid."
6. "State failed to give defendant a full and complete copy of motion of discovery. There are several pieces of evidence in the State's possession which were not given to the defendant as a part of his "motion of discovery." "

The Respondent filed its Return on January 19, 2005. An evidentiary hearing was held on February 28, 2006 at the Moss Justice Center. The Applicant was present and represented by Leah Moody, Esquire. By Order dated March 22, 2006, the Honorable Lee S. Alford denied and dismissed the Applicant's case with prejudice.

A timely Notice of Appeal was filed and an appeal perfected pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The South Carolina Supreme Court denied the Applicant's appeal by written Order on February 21, 2008. The Remittitur was issued on March 10, 2008.

9:09-754-HMH-BM

On March 24, 2009, the Applicant filed a Writ of Habeas Corpus in the United States District Court. The Honorable Bristow Marchant issued a Report and Recommendation on December 9, 2009, recommending that the action be dismissed. On March 4, 2009, the Honorable Henry M. Herlong, Jr. adopted the Report and Recommendation and granted the State's Motion for Summary Judgment, denying the Applicant's Habeas Corpus claim.

II.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant has newly discovered evidence that shows that he is innocent of the murder charge."
 - a. "Applicant has a statement/letter from co-defendant, where co-defendant admits committing the murder"
2. "Subject Matter Jurisdiction (kidnapping charge)"
 - a. "Applicant nor co-defendants did not kidnap anyone in State of S.C. Kidnapping occurred in State of N.C., so S.C. had no jurisdiction."

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, the South Carolina Department of Corrections' records and the prior PCR and Federal Habeas Corpus records by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Court should summarily dismiss the current Application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or

knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised the new grounds for relief in his prior post-conviction relief application. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, Respondent moves for a summary dismissal of the application because it is successive.

IV.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the

sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on April 10, 2003. The Applicant was therefore required to file his application before April 11, 2004. This Application was filed on March 24, 2009, which was well beyond the time that the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

V.

The Applicant has alleged he is in possession of newly discovered evidence. A party making a motion for a new trial or for relief from judgment based on newly-discovered evidence must show that the evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching. Lanier v. Lanier, 364 S.C. 211, 612 S.E.2d 456 (S.C. App. 2005). The Respondent submits the Applicant cannot satisfy any requirement of the Lanier test and has failed to produce the alleged newly discovered evidence

that would entitle him to an out-of-time, successive PCR action. Therefore, the Respondent submits the Applicant has not overcome his burden in proving such evidence actually exists and demands strict proof of such before an evidentiary hearing is convened into the matter. The Respondent respectfully requests this Court summarily dismiss this application unless the Applicant can bring forth proof of such newly-discovered evidence that would entitle him to a belated, successive PCR application.

VI.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VII.

WHEREFORE, Respondent moves to summarily dismiss the application because it is successive, it was filed after the statute of limitations had expired, and it fails to properly allege newly discovered evidence. In the alternative, Respondent requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

J RUTLEDGE JOHNSON
Staff Attorney

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

December 20, 2011



ALAN WILSON
ATTORNEY GENERAL

January 9, 2012

FILED-RECEIVED
2012 JAN 10 PM 12:30
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York SC 29745

Re: James Corbett #280660 v. State of South Carolina
2009-CP-46-1289

Dear Mr. Hamilton:

Enclosed please find an original and a copy of a Conditional Order of Dismissal in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,

J. Rutledge Johnson
Staff Attorney

JRJ:ked
Enclosures

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

James Corbett, #280660,

2009-CP-46-1289

Applicant,

v.

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

FILED-RECEIVED
2012 JAN 10 PM 12:30
DAVID HAMILTON
J.C.P. & GS
YORK COUNTY, SC

This matter comes before this Court by way of an application for post-conviction relief filed March 24, 2009.

PROCEDURAL HISTORY

In its Return, the Respondent requests that the action be summarily dismissed. The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2003 term of the York County Grand Jury for Murder (2003-GS-46-1055) and Kidnapping (2003-GS-46-1056). He was represented by Dan D'Agostino, Esquire. On April 10, 2003, the Applicant pled guilty to both charges as indicted. The Honorable John C. Hayes, III sentenced the Applicant to confinement for a period of forty (40) years for Murder and thirty (30) years, concurrent, for Kidnapping. The Applicant did not appeal his conviction or sentence.

2004-CP-46-0896

The Applicant filed his first application for post-conviction relief (PCR) on April 12, 2004.

[Handwritten signature]

The Applicant alleged the following reason that he is being held in custody unlawfully:

1. "Counsel was ineffective by informing defendant that he would fall under the 85% law for violent offenders, when in fact defendant must serve 100% of his sentence because of the charge of murder."
2. "Counsel was ineffective by not having defendant evaluated by mental health to determine if he was mentally stable to stand trial or determine [defendant's] state of mind at the time the offense was committed; when in fact the defendant is and has been classified by mental health professionals as being mentally ill and having a long history of mental illness, dating back over 10 years."
3. "Counsel was ineffective by allowing defendant to plead guilty to a "conditional plea agreement" which both the State and counsel refused to put in writing because it was "under the table." Such pleas, at the time of entry of [my] plea, were/are illegal and counsel should have been aware of the fact."
4. "Counsel was ineffective by not ensuring that the "plea agreement" was enforced and all "promises.""
5. "State failed to meet all of the conditions of [the] plea agreement. Defendant entered a plea of guilty after an agreement was made between the Solicitor's office and defendant's counsel and defendant. As part of this "plea agreement" the State was supposed to fulfill certain promises/obligations after sentencing. However, after sentencing the State failed to hold up its end of the "agreement" which makes the plea invalid."
6. "State failed to give defendant a full and complete copy of motion of discovery. There are several pieces of evidence in the State's possession which were not given to the defendant as a part of his "motion of discovery.""

The Respondent filed its Return on January 19, 2005. An evidentiary hearing was held on February 28, 2006 at the Moss Justice Center. The Applicant was present and represented by Leah Moody, Esquire. By Order dated March 22, 2006, the Honorable Lee S. Alford denied and dismissed the Applicant's case with prejudice.

A timely Notice of Appeal was filed and an appeal perfected pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The South Carolina Supreme Court denied the Applicant's appeal by written Order on February 21, 2008. The Remittitur was issued on March 10, 2008.

9:09-754-HMH-BM

On March 24, 2009, the Applicant filed a Writ of Habeas Corpus in the United States District Court. The Honorable Bristow Marchant issued a Report and Recommendation on December 9, 2009, recommending that the action be dismissed. On March 4, 2009, the Honorable Henry M. Herlong, Jr. adopted the Report and Recommendation and granted the State's Motion for Summary Judgment, denying the Applicant's Habeas Corpus claim.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant has newly discovered evidence that shows that he is innocent of the murder charge."
 - a. "Applicant has a statement/letter from co-defendant, where co-defendant admits committing the murder"
2. "Subject Matter Jurisdiction (kidnapping charge)"
 - a. "Applicant nor co-defendants did not kidnap anyone in State of S.C. Kidnapping occurred in State of N.C., so S.C. had no jurisdiction."

Incorporated herein are the records of the York County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the Applicant's prior PCR and Federal Habeas Corpus records by reference. The Respondent reserves the right to amend this information upon receipt of any relevant materials.

Findings of Fact and Conclusions of Law

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly,

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voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

This Court also finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgement of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to

all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on April 10, 2003. The Applicant was therefore required to file his application before April 11, 2004. This Application was filed on March 24, 2009, which was well beyond the time that the statutory filing period had expired.

A motion for summary judgement may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgement as a matter of law."

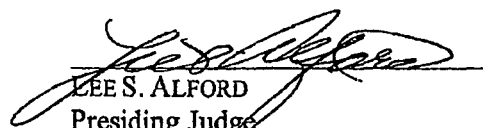
This Court further finds the Applicant cannot satisfy the requirements of the Lanier test for newly discovered evidence. Lanier v. Lanier, 364 S.C. 211, 612 S.E.2d 456 (S.C. App. 2005). A party making a motion for a new trial or for relief from judgment based on newly-discovered evidence must show that the evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching. The Applicant has failed to produce the alleged newly discovered evidence that would entitle him to a belated PCR action. Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for being successive, for failure to file within the time mandated by statute and for not properly alleging "newly discovered evidence."

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2009

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the York County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: J. Rutledge Johnson, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 4th day of January, 2012


LEE S. ALFORD
Presiding Judge
Sixteenth Judicial Circuit

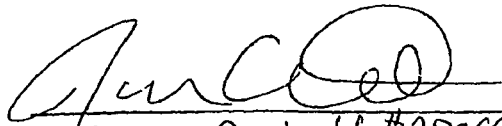
York, South Carolina

Dear Judge Alford,

1-18-2012

I am writing you ~~to~~ concerning case number 2009-CP-46-1289. This case was filed in 2009. After waiting the required amount of time and getting no reply to the PCR I filed a Motion For Default. Now over two years later the State files a return and a motion to dismiss. I have repeatedly asked for a default hearing in this case but was told by the Clerk's office that the Attorney General's office had to schedule any hearings. The State has defaulted in this case and I properly filed a Motion for Default Judgement. I strongly feel that a default hearing should be held before the States Motion to Dismiss be considered. Therefore I am asking that you please instruct the Clerk to schedule a default hearing so that my Motion for default can be heard before the States motion to dismiss. Thanking you, I remain,

Sincerely yours,


James Corbett #280060
Lee C.I / SMU #18
990 Wilsacky Hwy
Bishopville, SC 29010

FILED-RECEIVED
2012 JAN 24 AM 11:40
DAVID HAYLICK
CLERK
JAN 26 2012

State of S.C.
County of York

James Corbett
Applicant,

v.

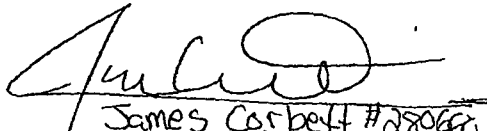
State of S.C.
Respondent

C/A No: 2009-CP-46-1289

Motion For Extension in Time

Comes now, the above captioned Applicant, and asks for a 20 day extension in which to respond to the Respondents Return and motion to Dismiss. In support, the Applicant states as follows:
He is confined to SMC and has very limited access to the prison's law library. He is only permitted to use 3 books approx. every two weeks. As such he needs the additional time to properly research and prepare his response.

Respectfully Submitted this 18th day of January 2012,


James Corbett #28066
Lee C.I./SMC #18
990 Wisacky Hwy
Bishopville, SC 29010

FILED-RECEIVED
2012 JAN 24 AM 11:40
DAVID HAMILTON
C.A. CP-46-1289
YORK COUNTY
SC

South Carolina Department of Correction

Request to Staff Member

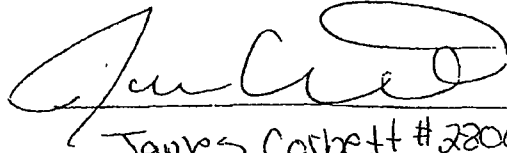
To: name:	Title.	Date!
Exhibit name!	SCDC#:	
Institution!	Living quarters:	
Date!	Signature!	

June 18, 2012

Dear Clerk,

Please forward to me 3 motion cover sheets and a copy of my Motion for Default Judgment in C/A No. 2009-CP-46-01289. Additionally, could you please inform me ~~when~~ when Case No. ~~2009-CP-46-01282~~ 2009-CP-46-01282 is scheduled to be heard? Thanking you, I remain,

Sincerely yours,



James Corbett #220660
Perry C.I./B-Y-14
430 Oak Lawn Rd
Pelzer, S.C. 29669

FILED-RECEIVED
2012 JUN 22 PM 2:15
DAVID HAMILTON
C.C.P. & S.S.
YORK COUNTY, SC

STATE OF SOUTH CAROLINA	)	
COUNTY OF YORK	)	IN THE COURT OF GENERAL SESSIONS
	)	SIXTEENTH JUDICIAL CIRCUIT
State of South Carolina,	)	
Plaintiff,	)	
v.	)	ORDER CLARIFYING SENTENCE
James Ray Corbett, Jr.	)	2003-GS46-01056 – Kidnapping
Defendant.	)	

This matter comes before the Court upon motion by Defendant's Attorney, requesting an Order of Clarification regarding the Defendant's sentence for Kidnapping. The Defendant was sentenced to the SC Department of Corrections on April 10, 2003, for a period of forty (40) years on one count of Murder (Indictment # 2003-GS46-01055) and thirty (30) years concurrent to one count of Kidnapping (Indictment # 2003-GS46-01056). It appears that pursuant to Section 23-3-430, *Code of Laws of South Carolina* (1976), as amended, certain convictions require that an individual register as a sex offender.

Section 23-3-430, Section C, requires that a person who is guilty of, plead guilty or nolo contendere to, or has been adjudicated delinquent to the offense of Kidnapping shall be referred to as an offender. However, Subsection 15 provides an exception where the Court makes a finding on the record that the offense did not include a criminal sexual offense, or an attempted criminal sexual offense

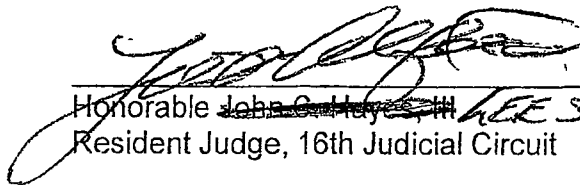
it appears, after a review of the record in the above referenced case, that Mr. Corbett's crime did not include any criminal sexual offense or attempted criminal sexual offense. Therefore, the Court makes a finding that Mr. Corbett's crimes did not include

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 YORK COUNTY, SC
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a criminal sexual offense or attempted criminal sexual offense and as such, he is not required to register pursuant to Section 23-3-430

AND IT IS SO ORDERED.


Honorable John C. Hayes, III
Resident Judge, 16th Judicial Circuit

York, South Carolina

August 17, 2012

I SO MOVE:

I CONSENT:


Nathan Sheldon, Attorney for
James Ray Corbett, Jr.


Solicitor Kevin S. Brackett
Sixteenth Judicial Circuit

#2
EDP

State of South Carolina.,)
)
)
County of York.)

In the Common Pleas
 Court of York

Case No.: 2009-CP-46-01289

James Corbett.,)
)
 Applicant.,)
)
 -vs-)
)
 State of South Carolina.,)
)
 Respondent.)
)
)

Transcript of Record

August 17, 2012
 York, South Carolina

B E F O R E:

Honorable Lee S. Alford., Judge.

A P P E A R A N C E S:

Mr. Nathan James Sheldon
 Shaw Law Firm
 P.O. Drawer 36250
 Rock Hill, South Carolina 29732
 803-329-4200
 803-329-4202
 For the Applicant

Mr. J. Rutledge Johnson
 Assistant Attorney General
 Office of the Attorney General
 P.O. Box 11549
 Columbia, South Carolina 29211-1549
 803-734-1867
 803-734-4113
Rjohnson@scag.gov
 For the Respondent

ORIGINAL

Wanda Nelson, CVR-M
 Circuit Court Reporter
 Sixteenth Judicial Circuit
 To The Honorable John C. Hayes, III

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WITNESS

BY:

PAGE NO.

Jessica Jones

Mr. Sheldon

P.16-26

Mr. Johnson

P.26-27

Mr. James Corbett

Mr. Sheldon

P.29-35

Mr. Johnson

P.36-38

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
App. 2	Letter "Turtle"		P.21

COURT REPORTER'S NOTE: ALL EXHIBITS WERE FILED WITH THE
YORK COUNTY CLERK OF COURT'S OFFICE.

1 (ON THE RECORD IN THE MATTER OF JAMES CORBETT VERSUS
2 STATE OF SOUTH CAROLINA ON FRIDAY, AUGUST 18, 2012 AT 10:07
3 A.M..)

4 THE COURT: Thank you. Please be seated.

5 Yes, sir.

6 MR. JOHNSON: Good morning, Your Honor. May it please
7 the Court. This is the case of James Corbett versus the
8 State of South Carolina its Case No. 2009-CP-46-1289. Mr.
9 Corbett was indicted the March 2003 term of the York County
10 Grand Jury for murder and kidnapping. On April 10th, 2003
11 he pled guilty to both charges as indicted. The Honorable
12 John C. Hayes, III sentenced him to confinement for forty
13 years for the murder and thirty years concurrent for the
14 kidnapping. He did not appeal his conviction of sentence.
15 In 2004-CP-46-0-8-9-6 he filed a Post Conviction Relief -
16 his first Post Conviction Relief Application April 12th,
17 2004, arguing or alleging a - of issues that I believe you
18 have in your packet.

19 The State filed its return January 19th, 2005. There
20 was a evidentiary hearing held here February 28th, 2006, he
21 was represented by Leah Moody. By order March 22nd, 2006,
22 Your Honor denied and dismissed his application with
23 prejudice; thereafter there was a Notice of Appeal filed on
24 his behalf and an appeal effective pursuant to Johnson v.
25 State, South Carolina Supreme Court denied his appeal by

1 written order February 21st, 2008, the remitter was
2 thereafter issued March 10th, 2008. Thereafter filed a
3 federal Habeas Corpus on March 24, 2009, in the United
4 States District Court for the district of South Carolina.
5 The Honorable Bristow Marchant issued a report
6 recommendation on December 9th, 2009, recommending the
7 action be dismissed. On March 4, 2009 the Honorable Henry
8 Herlong, Junior, adopted the report recommendation and
9 grated the State's motion for Summary Judgment, thereby
10 denying the Applicant's Habeas Corpus Claim.

11 He has filed this PCR on March 24th, 2009, alleging
12 there is newly discovered evidence showing he's innocent of
13 the murder charge and subject matter jurisdiction. The
14 issue for the immediate hearing - and there was a - The
15 State filed it's return - let me back up - on December 20th
16 of 2011, and thereafter Your Honor issued additional order
17 of dismissal based on successive and statute of limitations
18 as well as no proof of the newly discovered evidence.

19 On January 4th of this year 2012, Your Honor ordered a
20 hearing because we did not - it had not come to our
21 attention there was a notice of Default Judgment filed by
22 the Applicant on September 24th, 2009, but he is
23 represented here today by Mr. Nathan Sheldon.

24 THE COURT: Mr. Sheldon.

25 MR. SHELDON: Thank you, Your Honor, may it please the

1 Court.

2 Before we get into the default and newly discovered
3 evidence and the subject matter jurisdiction, as discussed
4 in chambers this morning, I had in my hand a Consent Order
5 clarifying the sentence on Indictment 2003-GS-46-0-1-0-5-6
6 which was the indictment for kidnapping. At the original
7 sentencing defense counsel for Mr. Corbett did not ask the
8 judge to specifically find that this offense was not sexual
9 in nature and therefore Mr. Corbett was placed on the Sex
10 Offender Registry.

11 After speaking with Mr. Corbett this week he had ask
12 me if I could help him try to clarify that for him. I
13 wasn't appointed to do that and it certainly isn't part of
14 the PCR. Solicitor Brackett has agreed to consent to
15 remove him from the registry and has signed the Consent
16 Order. It has on the Honorable John C. Hayes' name at the
17 top of the order to sign because he's the administrative
18 judge. I would like to just let the court know that I will
19 represent him in taking care of this and, of course, get
20 Judge Hayes to sign this order as soon as I see him.

21 THE COURT: Actually Judge Hayes is not the
22 administrative judge, I am, and I'll be glad to sign it or
23 leave it for Judge Hayes.

24 MR. SHELDON: If I can pass it up we'll take care of
25 that today.

1 THE COURT: By way of clarification and for the
2 record, at one time kidnapping charges were automatically -
3 if he didn't make a specific finding that it was not sexual
4 in nature they automatically - SCDC automatically puts you
5 on the Sex Offender Registry. We've had to clear up a
6 number of these. Now we make it a point to make sure we
7 put that on there. It was not a concern at that time but
8 now that we know we need to put it on there we write it in.
9 We put it up for a number of reasons.

10 You can proceed, Counsel.

11 MR. SHELDON: Thank you, Your Honor. May it please
12 the Court. I think what we're going to do is address the
13 Default Judgment first and then kind of proceed from there.

14 Your Honor, my client has alleged that the State is in
15 default for failing to timely file an answer to his
16 petition for this current PCR which challenges the subject
17 matter jurisdiction and the newly discovered evidence. I
18 believe that once he filed it, it was some two hundred days
19 later until he actually filed the Motion for Default and it
20 took the State - I'm sorry, it took the Attorney General's
21 Office a couple of years to actually file a return on this
22 case and so we would make a motion that the default
23 judgment be granted and that order of default be submitted
24 and that the relief sought in the petition be granted.

25 MR. JOHNSON: Your Honor, just for the record, this

1 was filed and we did respond two years after. As you know
2 I've come on in the past year and didn't realize this was
3 open; took care of it as soon as it came to my attention.
4 But according to Rule 55 E the applicant has the burden of
5 proving that this default prejudice him in any way. The
6 State's position, he's already had a PCR. He pled guilty
7 and so you decide to dismiss this there is no prejudice,
8 he's had his one shot and therefore the State should not be
9 held in default because there is no prejudice.

10 THE COURT: The reason for it I guess was an over
11 sight there between the people in changing positions there
12 in the Attorney General's office handling these cases?

13 MR. JOHNSON: Sir?

14 THE COURT: Is that fair to say?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: There was a change over down there and
17 there was an over sight that wasn't addressed.

18 MR. JOHNSON: There's probably like four have taken
19 this circuit in the past two or three years.

20 THE COURT: And received no correspondence from him
21 pointing out there hadn't been a response - - -

22 MR. JOHNSON: Right.

23 THE COURT: --- until he filed a motion.

24 MR. JOHNSON: Right.

25 THE COURT: All right. Thank you.

1 What prejudice can you show? He's already had a PCR,
2 that was appealed to the Supreme Court and denied. He had
3 a Habeas Petition and that was essentially the same thing
4 and that was thrown out. And then he filed this one and
5 through an over sight they just failed to respond to it but
6 they have now responded. What prejudice is there to him?
7 And not going forward earlier than that, what prejudice is
8 there to him?

9 MR. SHELDON: Yes, Your Honor, I understand.
10 Essentially his position is that a potential material
11 witness in this case, his mother, has since died in the
12 interim from filing this since the time of getting a
13 response and therefore because that witness is no longer
14 available to testify because she's no longer with us that,
15 that created prejudice.

16 THE COURT: Well what statement was she going to make?

17 MR. SHELDON: Your Honor, she - essentially his mother
18 was gonna testify that the co-defendant made statements
19 admitting to the murder which is essentially the basis for
20 our newly discovered evidence. Although in full candor to
21 the Court in the PCR application that my client filed it
22 alleges that there was a letter from the co-defendant and
23 I've gone over that with him. So essentially that would
24 collaborate the letter that was written but in terms of
25 actual relief in the application in full candor that she

1 was not listed as a potential -

2 THE COURT: Sure. And we don't have any proof that
3 she - what she would testify to. He didn't allege it in
4 his application if she was going to be a material witness
5 to it. I don't find there is any prejudice to him, he's
6 had one PCR which was denied and that went - that was
7 appealed up to the Supreme Court. The Supreme Court
8 dismissed his appeal, found they were not entitled to any
9 relief. He then filed a Habeas Petition in the Federal
10 District Court, that was heard by the District Court and
11 dismissed and found that he was not entitled to any relief.
12 Now he's filed another PCR which is beyond the time line
13 and so it's barred by the Statute of Limitations - would be
14 barred by the Statute of Limitations. Unless he could fall
15 into one or two exceptions to that it would be barred by
16 the Statute of Limitations, and also barred by having
17 already filed post conviction application and be successive
18 to an earlier one that he's already filed, so for all of
19 those reasons and unable to show any prejudice based on his
20 application as it was filed. Now he can come back after
21 his mother has passed away unfortunately and allege that
22 she would testify to something that's going to help him but
23 he didn't allege that in the original application. And so
24 to say it now after his mother has passed away is - would
25 not have been a ground that existed in his application.

1 The court doesn't find any prejudice to him, he's allowed
2 to go forward now with whatever evidence he has in his PCR
3 and so the Court would deny his motion to grant default
4 judgment to him as set forth in his application. And that
5 would be - to do that on a procedural issue on a serious
6 case like this he would have to be able to show that he was
7 subjected to something significantly prejudiced and I don't
8 think you can do that.

9 MR. JOHNSON: Thank you, Your Honor.

10 MR. SHELDON: Your Honor, if I may continue, I think
11 the next matter that we should address is the issue subject
12 matter jurisdiction. Again, after discussing in chambers
13 in his PCR application he had ask to challenge subject
14 matter jurisdiction on the kidnapping charge in that the
15 kidnapping occurred in North Carolina. Essentially - I
16 don't know if the court is familiar with the facts of this
17 case but essentially the man was kidnapped in North
18 Carolina, brought to South Carolina where he was later
19 found dead. He would ask to challenge the subject matter
20 jurisdiction - Mr. Corbett would ask to challenge the
21 subject matter jurisdiction that South Carolina has
22 jurisdiction over the kidnapping. Obviously we'll leave
23 that in the Court's discretion but we would again in candor
24 like to add that there is no pending kidnapping charge in
25 North Carolina. It doesn't seem to be any - res judicata

1 issues so to simply as to whether the subject matter
2 jurisdiction whether it actually only exist in North
3 Carolina or continues on into South Carolina.

4 THE COURT: All right. Counsel.

5 MR. JOHNSON: Your Honor, the State's position is that
6 this was - this issue has been decided at the plea hearing
7 itself when the facts were recited by the solicitor. On
8 Page 18 of the appendix that you have the question was ask
9 by the Court, "Mr. Corbett, you agree with those facts" in
10 talking about the victim being taken from North Carolina
11 into South Carolina where he says "Yes, sir, I do." So
12 he's already admitted that this action took place in South
13 Carolina therefore South Carolina has subject matter
14 jurisdiction. This is a moot point really. He's also had
15 the opportunity to bring this up at his prior PCR and
16 failed to bring this issue to the Court's attention. So we
17 ask you to deny and dismiss that issue.

18 THE COURT: You said it was on Page 18 of ---

19 MR. JOHNSON: Yes, sir.

20 THE COURT: --- the transcript?

21 MR. JOHNSON: Yes, Your Honor, Line 22 and through 24.
22 In addition just for the record, we said back in chambers
23 that North Carolina never filed any charges so there is no
24 issue of res judicata; there is no double jeopardy so we
25 believe that there was subject matter jurisdiction in this

1 case.

2 THE COURT: Because the person was kidnapped in North
3 Carolina and brought into South Carolina so that was part
4 of the ---

5 MR. JOHNSON: The continuing effects.

6 THE COURT: --- continuing offense so he was brought
7 into South Carolina so he could have been charged either
8 place but he was not charged in North Carolina.

9 MR. JOHNSON: That's what my belief is Your Honor,
10 yes, sir.

11 THE COURT: You agree with that. So he could have
12 been charged in either place. He could have been charged
13 in both places however that would have been double
14 jeopardy.

15 All right, the Court finds there is subject matter
16 jurisdiction and denies the dismissal based on subject
17 matter jurisdiction. The Court in this state and county to
18 have jurisdiction if the kidnapping started in another
19 state and he was brought into this state as part of an
20 ongoing offense.

21 All right.

22 MR. JOHNSON: And is established it was in York
23 County.

24 THE COURT: Yes, sir. He agreed to that on the facts
25 on the record.

1 MR. JOHNSON: Yes, sir. Thank you, Your Honor.

2 THE COURT: What else?

3 MR. SHELDON: Your Honor, and what I was - what isn't
4 in the PCR my client this morning obviously cannot
5 represent himself so I make this motion for him, is asking
6 for a motion - a leave of court to seek discovery.
7 Essentially what he's saying is that he had sought through
8 the Clerk of Court and through the Solicitor's Office
9 essentially seeking the Grand Jury impanelment and
10 signatures from the Court and such other things. And also
11 the entire case file and he was not able to be provided
12 with those.

13 In conjunction with that in the case file what we are
14 alleging is essentially there were statements that were
15 given by co-defendants that were not turned over to him
16 which would also in turn help - essentially help his PCR
17 today and therefore - and since PCR there is no discovery
18 unless you get leave from the Court essentially that would
19 be the motion that we are asking for would be not only for
20 the case file but also for Grand Jury Impanelment documents
21 and the impaneling judge's order as well as the case file.

22 THE COURT: He could have brought that before. This
23 is successive. That was the grounds clearly available to
24 him at the time he filed his first application. He could
25 have gotten all that information and done whatever he

1 wanted to do. You can't - Anything that he brought up in
2 the prior PCR or could have brought up in the PCR was
3 available to him at that time that he was aware of. He
4 cannot bring up a successive application and he can't file
5 it more than one year after the time period for him to file
6 a PCR application, so it's barred on both of those grounds.
7 If he says there's something wrong with that, he could have
8 brought it up before. There's no reason why he couldn't
9 and sought that information and brought it up before in a
10 prior PCR application is there?

11 MR. SHELDON: No, Your Honor. And essentially what we
12 would argue in response is that - is not that it wasn't
13 actually discovered until the Clerk responded back to him
14 in 2009. In terms of -

15 THE COURT: Responded how? Responded how to him?

16 MR. SHELDON: Through a letter saying....

17 That specific documents were not on file in the
18 Clerk's office.

19 THE COURT: But it might have been in the file when he
20 filed his first PCR application.

21 MR. SHELDON: And, Your Honor, --

22 THE COURT: That information whatever was available
23 was available at that time. Now I don't know what he was
24 requesting in there from the Clerk's office but I'm sure
25 whatever they got on file down there he could get copies of

JESSICA JONES: BY MR. SHELDON

-16-

1 it. You could get copies of it. But the point is whatever
2 is in that file down there, whatever they've got, is
3 available to him when he filed his first PCR application.
4 So it can't be a ground for a successive PCR application.
5 Whatever was available in that file down there was
6 available then.

7 MR. SHELDON: Yes, sir.

8 Your Honor, our next motion would be the motion for
9 newly discovered evidence and to that I think we need to
10 elicit some testimony.

11 THE COURT: All right.

12 MR. SHELDON: We would actually call Jessica Jones to
13 the stand first.

14 (JESSICA JONES, WHITE FEMALE, ENTERING THE COURTROOM
15 FROM HOLDING CELL DOOR.)

16 (WHEREUPON: JESSICA JONES,
17 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

18 MADAME CLERK: Have a seat.

19 MR. SHELDON: Thank you, Your Honor, may it please the
20 court.

21 DIRECT EXAMINATION

22 JESSICA JONES BY MR. SHELDON:

23 Q. Good morning, Ms. Jones. Please state your name for
24 the record so that the court reporter and the court can
25 hear you.

JESSICA JONES: BY MR. SHELDON

-17-

1 A. Jessica Jones.

2 Q. And, Ms. Jones, are you currently incarcerated at Lee
3 Correctional Institution?

4 A. No, sir. I recently got transferred to Camille Graham
5 for the CIU Program.

6 Q. Okay. Well I apologize.

7 A. That's okay.

8 Q. But you're currently incarcerated in the South
9 Carolina Department of Corrections?

10 A. Yes, sir.

11 Q. And what are you incarcerated for?

12 A. Kidnapping and possession of an illegal firearm.

13 Q. And do those charges stem from the same incident, a
14 murder that happened back in 2002?

15 A. Yes, sir.

16 Q. Okay. But you're not incarcerated for any murder
17 charge; is that correct?

18 A. No, sir.

19 Q. And on the kidnapping and the firearm charge, that was
20 part of a plea deal that your lawyer back in 2002 struck
21 with the State?

22 A. The State just offered it because they felt like they
23 didn't have any evidence.

24 Q. Okay. And - But you were originally charged with
25 murder; is that correct?

JESSICA JONES: BY MR. SHELDON

-18-

1 A. Yes, sir. We all were.

2 Q. And on the kidnapping charge you received thirty
3 years?

4 A. Yes, sir

5 Q. And that's thirty years that you're currently serving;
6 correct?

7 A. Yes, sir

8 Q. At some point after you were convicted, did you write
9 a letter to - First of all, do you recognize Mr. Corbett?

10 A. Yes, sir.

11 Q. And who is he?

12 A. One of my co-defendants.

13 Q. One of the co-defendants from your 2002 charge?

14 A. Yes, sir

15 Q. At some point when you were incarcerated, did you
16 correspond with Mr. Corbett? Did you write him a letter?

17 A. Yes, sir. You showed me the letter.

18 Q. And I'm gonna show it to you again.

19 May I approach the witness, Your Honor?

20 MR. JOHNSON: And just for the record, Your Honor, I
21 had seen the letter.

22 THE COURT: You have?

23 MR. JOHNSON: Yes, sir.

24 BY MR. SHELDON:

25 Q. Is that the letter that you've already had a chance to

JESSICA JONES: BY MR. SHELDON

-19-

1 look at back in the holding cell?

2 A. Yes, sir

3 Q. And do you acknowledge that that is in fact your
4 handwriting?

5 A. Yes, sir

6 Q. And that is a letter that - And its addressed, it's
7 kind of - it's kind of hard to see, but is that a letter
8 you sent to Mr. Corbett?

9 A. Yes, sir

10 Q. And do you actually - And the title of the letter is
11 essentially "Turtle". Is that a nickname for Mr. Corbett
12 at the time?

13 A. Yes, sir

14 Q. And so this letter was sent to Mr. Corbett at some
15 point after you were incarcerated?

16 A. Yes, sir

17 Q. And after you had pled guilty?

18 A. Yes, sir. I remembered something in the holding cell.
19 Its in here. Because I told you that the day on this
20 letter is not correct.

21 Q. Okay.

22 A. There is a part that says - Well it's right here. It
23 says, "I'm gonna be staying with KK." That's who we called
24 Katherine Smith, that's our other co-defendant. She was at
25 Camille. They all got sentenced before I did.

JESSICA JONES: BY MR. SHELDON

-20-

1 Q. Okay.

2 A. She was at Camille and Hillary, his girlfriend, was at
3 Leath. And I was - Well I had to write this in the county
4 because I said "I'm gonna be staying with KK" so I went to
5 Camille from the county.

6 Q. Well let me - And I'm gonna let you continue, but I
7 want to actually put this letter into evidence at this
8 time.

9 A. Oh I'm sorry.

10 Q. So if I can have it back.

11 A. I'm sorry.

12 MR. SHELDON: Judge, at this point we'd move to make
13 this -

14 Is this one or two?

15 Admit this as Exhibit Two.

16 MR. JOHNSON: No objection, Your Honor.

17 THE COURT: All right. Be without objection.

18 Although I have some question about it, the question is
19 where it was written from and it says something else, some
20 other place.

21 MR. SHELDON: I don't think - I mean that is certainly
22 going to be a fact in question but I think the letter
23 itself that she wrote it is all we're seeking to admit it
24 for at this time.

25 THE COURT: All right.

JESSICA JONES: BY MR. SHELDON

-21-

1 MADAME COURT REPORTER: Judge, may I mark this
2 Applicants? I already had it filled out. He stated
3 Plaintiff.

4 THE COURT: Well it's Applicant.

5 MR. SHELDON: Yeah Applicant. I'm sorry.

6 MADAME COURT REPORTER: Either one. I just want the
7 record clear.

8 MR. SHELDON: Okay.

9 (WHEREUPON: APPLICANT'S EXHIBIT NUMBER TWO IDENTIFIED
10 AND MARKED, RECEIVED INTO THE RECORD.)

11 MADAME COURT REPORTER: Thank you. That's Number Two,
12 Applicant's Two.

13 MR. SHELDON: Sure.

14 BY MR. SHELDON:

15 Q. I'm gonna hand that back to you.

16 Now there is no question in your mind that you
17 actually wrote the letter; is that correct?

18 A. Yes, sir

19 Q. But there is some question over whether or not - Is
20 the letter dated?

21 A. It does have a date on it.

22 Q. And what is the date on it?

23 A. It says 12/9/08.

24 Q. And do you remember writing this letter on December
25 9th of 2008?

JESSICA JONES: BY MR. SHELDON

-22-

1 A. No, sir. I think its probably more likely that I,
2 wrote this right after I got sentenced which was in
3 December of 2003.

4 Q. And why would you say that?

5 A. Well I mean it's - to me it's pretty obvious. It says
6 I'm gonna be staying with KK. I'd rather stay with your
7 queen which was his girlfriend at the time. Hillary,
8 that's what he called her, was his Queen. So I mean I
9 wasn't anywhere. I was in limbo at that time. I was still
10 at the county because Hillary was at Leath and Katherine
11 was at Camille.

12 Q. Okay. And so -

13 THE COURT: They saying she's trying to change the
14 date from 2008 or 2009 all the way back to 2003 on that
15 letter?

16 A. Yes.

17 THE COURT: Is that what I -

18 A. The date's -

19 THE COURT: Wait a minute.

20 MR. SHELDON: Yes, Your Honor.

21 THE COURT: Is that what I understand?

22 MR. SHELDON: Yes, Your Honor.

23 THE COURT: All right. Go ahead.

24 BY MR. SHELDON:

25 Q. In the letter, the letter is fairly long, but in the

JESSICA JONES: BY MR. SHELDON

-23-

1 letter you essentially talk - If you could turn to Page 3
2 of the letter.

3 A. Okay.

4 Q. You essentially say, and I'm reading from the very top
5 line, "I would a been so mad, I don't know, Jamie, ain't
6 nothin I can say to repay that but I'm gonna do my best."
7 In that phrase are you referring to repaying Mr. Corbett
8 for something?

9 A. Yes, sir. When we first got arrested he tried to -
10 well basically him and Hillary, his girlfriend, tried to
11 blame everything on me and was they didn't know who shot
12 the victim and in the end he got sentenced and he, you
13 know, maintained his innocence up until he got sentenced
14 and then he wrote my lawyer a letter stating that he had
15 lied, he was sorry and he was gonna try to help me as best
16 he could, and that meant a lot to me and I understood that
17 he was very angry, you know, that he had got a lot of time.
18 He was angry we had got caught, so that meant a lot to me
19 that he tried in the end to be honest.

20 Q. And if you could turn to Page 1 also, which it doesn't
21 have a page number on it but it's -

22 THE COURT: I'm sorry to interrupt you and I'm trying
23 to follow this.

24 Are you saying that he originally said you and he - he
25 and his girlfriend said you were the one who committed the

JESSICA JONES: BY MR. JOHNSON

-27-

1 Q. So its your testimony that this letter wasn't actually
2 written in 2008 was it?

3 A. No, sir.

4 Q. It was actually written way before that wasn't it?

5 A. Yes, sir

6 Q. Okay. And you never claimed that Mr. Corbett is
7 innocent of this murder in this letter do you?

8 A. No, sir.

9 MR. JOHNSON: No further questions, Your Honor.

10 MR. SHELDON: Nothing further, Your Honor.

11 THE COURT: Thank you, ma'am. You may stand down.

12 A. Do you all need this.

13 MADAME COURT REPORTER: Give it to me.

14 A. I'm sorry.

15 THE COURT: Give it to the court reporter.

16 (WITNESS LEAVING WITNESS STAND AND ESCORTED FROM THE
17 COURTROOM.)

18 THE COURT: Anything else?

19 MR. SHELDON: Yes, your Honor. We call James Corbett
20 to the stand.

21 MR. JOHNSON: Your Honor, actually at this time before
22 he testifies, we would move for summary judgment. There is
23 no material evidence to prove his case. The offer of this
24 letter testifying that it's way before 2008, he filed this
25 in March 2009, this is not newly discovered evidence. This

JESSICA JONES: BY MR. SHELDON

-24-

1 murder?

2 A. Yes, sir.

3 THE COURT: And at the time he pled guilty he said
4 that that's not the case ---

5 A. Well after -

6 THE COURT: --- he committed - wait a minute - he
7 committed the murder. But then he told you later that he
8 didn't do it or he wrote a letter or told your lawyer --

9 A. Yeah he got in touch with my lawyer.

10 THE COURT: --- that he was sorry that he blamed you
11 because it wasn't you and that's what you wanted to repay
12 him for?

13 A. Yes.

14 THE COURT: Okay. All right.

15 Proceed.

16 BY MR. SHELDON:

17 Q. If I could direct your attention back to Page One.

18 A. Okay.

19 Q. Which is not marked but it has the date on it as well
20 as it has a big "Turtle".

21 A. Right.

22 Q. You know where we're at? In the first, essentially
23 the first paragraph and I'm gonna read from your letter.

24 "I really don't know if you know why or not so I'll
25 put a bug in your ear. The rap didn't get in so they come

JESSICA JONES: BY MR. SHELDON

-25-

1 at me with the P-diddy that's about it you feel me? Now I
2 want you to know that even though you tried to force me in
3 the beginning I respect what you was going to do in the
4 end. That's trill and I appreciate that for what it's
5 worth ya mean. You know this is a hard letter for me to
6 write and I don't even know where to begin."

7 Now what is meant kind of by that paragraph?

8 A. Basically it's the same thing, you know, he tried to -
9 well I said F-u-c-k in the letter. But he tried to, you
10 know, basically pin everything on me claiming I was the
11 master mind in the beginning. He, you know, then he then
12 took the lie detector test and he had failed and I had
13 passed and he ended up pleading guilty and - I mean its
14 just basically it's exactly what I say. I mean it was a
15 very hard letter for me to write. I was angry at him as
16 well for putting me through all that. I felt like if he
17 had just told the truth in the beginning it wouldn't have
18 gotten that far. So I mean it was a lot for me to even say
19 but I did respect in the end that he did try to, you know,
20 make things right and fix it.

21 Q. And at the guilty plea would it be fair to say that
22 the solicitor - that both you and Mr. Corbett went into the
23 woods together; is that correct?

24 A. Yes, sir.

25 Q. And that at no point during any of the guilty pleas

JESSICA JONES: BY MR. SHELDON
BY MR. JOHNSON

-26-

1 did anyone ask you to admit to being the shooter; is that
2 correct?

3 A. I wasn't in the courtroom with his stuff so I don't

4 ---

5 Q. Okay.

6 A. --- I don't know.

7 Q. Did at any point during your guilty plea did you admit
8 to being the shooter?

9 A. No, sir.

10 Q. Have you admitted to anyone since then to being the
11 shooter?

12 A. No, sir.

13 Q. So it's your testimony today that the paragraphs that
14 were read out of this letter that you're not apologizing
15 for being the shooter and essentially him taking the rap
16 for it?

17 A. No. No that's not what I'm doing with this letter.

18 Q. Okay.

19 MR. SHELDON: Your Honor, I don't have any more
20 questions right now.

21 MR. JOHNSON: Two questions, Your Honor.

22 CROSS EXAMINATION

23 JESSICA JONES BY MR. JOHNSON:

24 Q. Good morning, Ms. Jones. How are you?

25 A. Hi.

1 has been in his possession or in existence for what five
2 years, six years.

3 THE COURT: Excuse me.

4 Where are you going? What else is there? He can get
5 on the stand and say whatever he wants to but it's got to
6 be newly discovered evidence. He's already had his day in
7 court on these -

8 MR. SHELDON: Yes, Your Honor, I understand. I mean
9 he's going to testify that the date that he actually
10 received the letter in 2008, filed it timely and
11 essentially that through -

12 THE COURT: It doesn't make any difference. She's
13 already testified, and you can read the wording of the
14 letter, the only thing she's saying in there you tried to
15 pin it all on me, I appreciate you now, I admit that it
16 wasn't me it was you. How in the world is that helping him
17 regardless of when the letter was written?

18 MR. SHELDON: Your Honor, he has a different
19 interpretation of what the letter was actually meaning.

20 THE COURT: Well I mean she's testified that it was
21 written in 2003, and how it got this other date on there I
22 don't know. But she - it was written while she was still
23 in the county detention center up here and it was written
24 in 2003. It can't possibly be after the discovery of
25 evidence if it was written in 2003 no matter if somebody

JAMES CORBETT: BY MR. SHELDON

-29-

1 puts a different date on the top of it or not. You know
2 that's the point. And so - While he's here I'll put him on
3 the stand, but I'm telling you now, I don't want to revisit
4 the whole case and all of that. Let's stick exactly to the
5 point he's going to try to make. That's all I'm gonna take
6 testimony on.

7 MR. SHELDON: Yes, Your Honor.

8 THE COURT: All right.

9 MR. SHELDON: We call James Corbett to the stand.

10 MR. JOHNSON: Just for the record, just renew my
11 motion at this time.

12 THE COURT: I understand. He's here, I don't have a
13 jury or anything to worry about and I'm gonna let him put
14 whatever they want to put on the record.

15 MR. JOHNSON: Yes, Your Honor, thank you.

16 (WHEREUPON: JAMES CORBETT,
17 BEING CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

18 MR. SHELDON: Thank you, Your Honor. May it please
19 the court.

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION

22 JAMES CORBETT BY MR. SHELDON:

23 Q. Mr. Corbett, please state your name for the record so
24 that the court reporter can hear you?

25 A. James Corbett.

JAMES CORBETT: BY MR. SHELDON

-30-

1 Q. Thank you. And, Mr. Corbett, we are here today on a
2 motion for newly discovered evidence for which you filed a
3 petition for PCR. And in your petition you alleged that
4 there was a letter written by a co-defendant admitting to
5 the shooting; is that correct?

6 A. Yes, sir.

7 Q. And the letter has already been introduced into
8 evidence as Applicant's Exhibit Two.

9 Your Honor, can I approach?

10 THE COURT: Yes, sir.

11 Q. I'm going to show you this letter. Is this the letter
12 that you were referring to in your petition for PCR?

13 A. Yes, sir

14 Q. And there's been some testimony over the date written
15 in the letter. When did you receive this letter from the
16 co-defendant?

17 A. I didn't actually get the letter until 2009. The date
18 on it is - The date on it is 2008.

19 Q. You did not receive this letter in 2003?

20 A. No, sir.

21 Q. Getting to the meat of it, did you alter the date in
22 any way on this letter?

23 A. No, sir.

24 Q. That's - Have you altered the letter at all since you
25 received it?

JAMES CORBETT: BY MR. SHELDON

-31-

1 A. No, sir.

2 Q. Have you been in continuous possession of the letter
3 since you received it?

4 A. Yes, sir

5 Q. And has anyone else to the best of your knowledge
6 altered the letter since you received it?

7 A. No, sir.

8 Q. Now getting to the actual crux of your petition is
9 newly discovered evidence and as you've heard the Court and
10 Jessica Jones testified that there doesn't - there doesn't
11 appear to be any newly discovered evidence. Will you
12 please explain to the Court where does Ms. Jones admits to
13 the shooting or somehow makes you less culpable for what
14 happened in 2002?

15 A. Well like I had told you when I spoke with you in the
16 back, the letter's real vague. I mean I understand that
17 the letter's real vague, but if - to someone who knew the
18 whole situation of the case, I mean it's pretty plain and
19 clear. I mean initially we were all charged with murder.
20 Okay. Then they finally narrowed it down to me and Ms.
21 Jones. When we initially went to court it was - it was
22 Jessica's birthday so she decided she wasn't going to go to
23 court so she held out. But the rest of us went to court.
24 When it come time for her to go to court which I believe
25 was 2000 - might a been 2004, 2002, somewhere around in

JAMES CORBETT: BY MR. SHELDON

-32-

1 there. Whenever she finally went to court it was - she had
2 her lawyer come and see me. Harry Dest came and seen me
3 and - uh - he had somebody with him, I can't remember who
4 it was. It was B.J. Barrowclough I think was his name.
5 Both of them came and saw me at Evans Correctional Insti -
6 Evan's Correctional Institution before she went to court
7 and they were like well we're gonna call you back to
8 possibly testify in the case. I was like okay. I mean
9 that's fine I'll do that. And Mr. Brackett also came and
10 saw me while I was there.

11 And because there was some issues with Mr. Brackett
12 and myself concerning our guilty plea and everything
13 because of that I told him I wouldn't testify. So Harry
14 Dest ended up bringing me back to the Detention Center for
15 her case. Now she said she gave me this letter when she
16 had to be in the Detention Center. Pretty much all the
17 Detention Center staff will tell you, they kept up us so
18 isolated from each other that's not even possible.

19 Q. And I - we've -

20 A. This --

21 Q. I understand there is a discrepancy with the date.
22 Please tell us - Please tell the court since you're seeking
23 relief based on newly discovered evidence, what the newly
24 discovered evidence is.

25 A. I received this letter from - Okay, like in the first

JAMES CORBETT: BY MR. SHELDON

-33-

1 part where she says everyone in the case gave a statement -
2 All - everyone in the case gave a statement. Three of the
3 statements I never got. But basically when I went to court
4 they had me and her charged with the murder. They had no
5 idea who the shooter was. It was a big issue. Kevin
6 Brackett said that everyone he knew was not the shooter
7 were only going to get charged with the kidnapping charge.
8 So when - after she had went - after she had - after she
9 had went - after she had went to court she sent me the
10 letter several years later and she said - she says it right
11 here in the letter she says - she says right here she says
12 - uh - "I know you mad at me" because she knows the reason
13 I was mad at her about was because she never spoke up about
14 the kidnap - about the murder charge.

15 I mean she stayed quite until after everything was
16 done and over with. Right on Page Two close to the bottom
17 she says "I know you mad at me and I can't understand why
18 you tried to fix things after everything that's happened
19 but you did." And the part where she says she knows I'm
20 mad at her is the part like I said is where she never spoke
21 up about the murder charge. And then she said when I tried
22 to fix things when I told the solicitor I wouldn't testify
23 for him.

24 Q. So in the letter she doesn't come out and say it, are
25 you implying that she was the shooter based off the

JAMES CORBETT: BY MR. SHELDON

-34-

1 information you just testified to?

2 A. That's always been the whole issue of the case. She
3 says I did it, she says I did it. There was never --

4 Q. But I'm asking - We're only sticking to this letter.
5 In the letter based off her, you know, her saying that
6 you're mad at her, or whatever, is that somehow implying
7 that she was the shooter and not you?

8 A. Yes, sir.

9 Q. Did you have an opportunity to speak with her during
10 the initial - at any point after - before you all were
11 sentenced?

12 A. No, sir.

13 Q. Did you try to speak with her?

14 A. Yes, sir.

15 Q. And because she was represented by counsel, were you
16 not able to speak with her?

17 A. Yes. And the State wouldn't even let my lawyer speak
18 with her.

19 Q. And so any evidence of that - any statements or
20 evidence that - or any statements by her made to - you were
21 not privy to because she was also represented?

22 A. Yes, sir.

23 Q. So you could not have gathered this information from
24 her prior to the guilty plea?

25 A. It was not possible. SCDC does not allow us to

JAMES CORBETT: BY MR. SHELDON

-35-

1 correspond with other inmates.

2 Q. And you're saying that the contents of this letter
3 today, essentially makes her more culpable and you less
4 culpable?

5 A. Yes, sir.

6 Q. And you would ask - Are you asking the Court for a new
7 trial and a new sentencing hearing?

8 A. Yes, sir.

9 Q. Based on this newly discovered evidence that - in this
10 letter?

11 A. Yes, sir.

12 Q. Okay. And this is the newly discovered evidence that
13 you're referring to in your PCR petition from 2009?

14 A. Yes, sir. And it's like I told you also, since being
15 incarcerated like I told you in 2009 my other two co-
16 defendants had told me the same thing about the
17 conversations that they had at the institution.

18 Q. But at no time - And in terms of conversations they
19 had at the institution regarding her being the shooter?

20 A. Yes, sir.

21 Q. Okay.

22 A. That's why I had ask you to have the other two brought
23 here so they could testify.

24 Q. Okay.

25 MR. SHELDON: Your Honor, I don't have any more

JAMES CORBETT: BY MR. JOHNSON

-36-

1 questions for this witness, Your Honor.

2 MR. JOHNSON: Just briefly, Your Honor.

3 CROSS EXAMINATION

4 JAMES CORBETT BY MR. JOHNSON:

5 Q. Mr. Corbett, you pled guilty to this crime did you
6 not?

7 A. Yes, sir.

8 Q. Okay. And you actually pled under the theory of hand
9 of one hand of all; isn't that correct?

10 A. Sir?

11 Q. You pled under the theory of hand of one hand of all
12 which means --

13 A. Yes, sir.

14 Q. Okay. And Solicitor Brackett brought that out at your
15 guilty plea didn't he?

16 A. Yes, sir.

17 Q. Okay. And he says "I submit to the court it doesn't
18 matter as to who shot, it's irrelevant who pulled the
19 trigger, in the eyes of the law Your Honor is well aware it
20 doesn't matter which one they're both equally guilty of
21 murder." Didn't he say that in the guilty plea?

22 A. Yes, sir, but he also told - he also told us before we
23 ever went to court that if there was some way that any of
24 us could show that we were not the shooter that we would
25 only get the kidnapping and the conspiracy to commit

JAMES CORBETT: BY MR. JOHNSON

-37-

1 kidnapping charges which three of the my co-defendants did.

2 Q. Okay. But he said that in the guilty plea?

3 A. And he ended up giving also the same thing to Ms.

4 Jones.

5 Q. Sir, if you'll answer my question. He said that in

6 the guilty plea didn't he?

7 A. Yes, sir

8 Q. Okay. And you actually when you got to explain

9 yourself in this guilty plea, you already claimed that you

10 didn't shoot the victim. It says here on Page 25 "I didn't

11 shoot him, I was there and that makes me wrong but that's

12 why I'm pleading guilty, I admit my involvement and it was

13 wrong. I know it was wrong." You've already pled that you

14 didn't shoot him.

15 A. Yes, sir.

16 Q. So this is not newly discovered evidence. You've

17 already pled that.

18 A. No, sir. I said that I didn't do it. Its newly

19 discovered evidence because beforehand I never had anything

20 where she might have indicated that she may have done it.

21 That's what makes it newly - Its newly discovered evidence

22 because at that time I didn't have any access to her.

23 Q. But your claim of newly discovered evidence is based

24 on you being less culpable than Ms. Jones; isn't that

25 right?

JAMES CORBETT: BY MR. JOHNSON

-38-

1 A. That's right.

2 Q. But you've already pled to this haven't you?

3 A. Yeah I pled to it.

4 Q. No further questions, Your Honor.

5 MR. SHELDON: Nothing further, Your Honor.

6 THE COURT: Thank you, sir. You may stand down.

7 (WITNESS LEAVING WITNESS STAND.)

8 MR. JOHNSON: Your Honor, once again, at this time I
9 renew my motion for summary judgment and even taking the
10 facts, you know, in favor of the non-moving party, there is
11 no issue of material fact here and we ask that you deny and
12 dismiss this application.

13 THE COURT: Well of course whether she is more
14 culpable than he really doesn't matter. Of course she
15 denied, she said she wrote this letter in 2003, he brings
16 it in and of course he can't be --

17 Sir, don't talk while I'm talking.

18 MR. CORBETT: I'm sorry.

19 THE COURT: Your attorney can't listen to me and
20 listen to you, both at the same time. Whether he's -
21 regardless of who the shooter is I don't guess its ever
22 been proved who the actual shooter was, but under the
23 theory of hand of one the hand of all those that were there
24 and participated in it when it was done would be under the
25 law just as guilty as the one who pulled the trigger. But

1 there's all kind of problems with saying there is after
2 discovered evidence. One thing she says I wrote this in
3 2003, but now it has on the letter written in 2008, but
4 it's only after discovered evidence obviously if it's after
5 his first PCR hearing and his Habeas petition he would only
6 be - so she's saying that's not the date I wrote the letter
7 to him, I talked about KK was his girlfriend and she was
8 there. And so first of all it's very doubtful this is
9 after discovered evidence, that's Number One. Number Two:
10 There is no way that I can see with the language that she's
11 testified that she is not saying that she's more culpable
12 than him in this letter. She's thanking him for not coming
13 in and testifying against her I guess, or whatever, and
14 trying to make things right or correct something. She said
15 she was at first mad at him because he was going to blame
16 it all on her, that he corrected that and she didn't know
17 why he did that but she appreciated it.

18 I don't see in there where she's saying I'm more
19 culpable than him. In that letter it doesn't say that
20 anywhere. There is no way you can read that language in
21 there to say that, and she's testified what she meant on
22 the letter when it was written and et cetera. But it
23 wouldn't make any difference even if he wasn't the shooter
24 and he was there when it was going on when he was shot and
25 participated in the whole thing, he under the hand of one

1 the hand of all he still could have been found guilty of
2 this at a trial so it wouldn't make any difference.

3 Now who the ultimate shooter was - I mean he pled
4 guilty and he admitted his role in it and pled and
5 according to this his girlfriend had given a statement
6 originally telling what all happened in this thing and
7 that's what broke the case and caused them all to be
8 charged and that was made part of the record at the time,
9 her statement, because the solicitor had it admitted into
10 the record. I don't see any newly discovered evidence
11 that's going to be helpful to him in this case at all and
12 so, you know, even if you had - if somehow you could
13 construe that to say that she was more culpable than him
14 he's still culpable because he pled guilty to it and he
15 pled guilty to exactly what he did. He said I wasn't the
16 shooter, I was there. So anyway I grant summary judgment
17 to the motion so please prepare me an order.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: Here's this order. We need to file this.

20 MR. SHELDON: I will file it and make copies and send
21 it...

22 (DEFENDANT ESCORTED FROM THE COURTROOM.)

23 - END OF TRANSCRIPT OF RECORD -

24 - COURT IN RECESS AT 11:00 A.M..)

25

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on the 17th day of August, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson
Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: ~~12~~2021

DATE: 11-19 / 2012

12/09/08

What's up homie? ain't nothin' my ^{way} you know the deally already. so... I really don't know if you know why or not so I'll put a bug in ya: "errrr". The rap didn't get in, so they co it me with the p-diddy & that's about it ya feel me? I want you 2 know that even though you tried 2 face me in the beginning... I respect what you was gone do in the end... that's +rill & I appreciate that, & what it's worth ya mean? You know this is a hard letter 4 me 2 write and I don't even know where 2 begin... I don't understand alot of things you did, well I understand but I think you were 2 smart sometimes... I mean WHY? So many things you've done and said have just made me wrinkle up my forehead (you know how I do) and be like "huh???" - What the *@#s? I mean, damn... I'm so glad we can talk now cvz there is so much I want you 2 know and you already know what I want 2 know so don't trip - what's p??? I want you 2 know I'ma be here 4 you... that's my word and you know my word is good. I do what I say - and I'm gone be here 4 you & when I get out, I will hold it down 4 you, & help you in any way I can - whatever - ya feel me? speakin' of which when do you get 2 chess up outta there? cvz I heard a couple of differ things & do you go 4 4. parole? let me know ok? Are you goin' 2 try 4 a PCR - if so on what grounds? have you been 2 the law library? OK all, ya know I'm gonna be stayin' with KK? that's already been worked out through my "friend" but I ain't do it 2 stay with KK I'd have rather stayed with yo' Queen but I ain't feelin' the "Lo-Cal" 2 far & strict - uh-uh it ain't 4 'ff'... but I'm a miss yo' girl 4-sh

plan 2 keep in touch with her somehow - ask her how or hell maybe
 u know Catch me on this I know you "prolly" already know
 ut A is 1. and Z is 26 ya know Kinda like 19/5/19 is
 05 so ain't 3, 15 - 4, 5, 6, 5, 14, 4, 5, 14, 20, 19 supposed 2 be able 2
 23, 18, 9, 20, 5 - so let me know the deally evz that would be alot
 easier than ya know Any tips about that would be well-appreciated
 uz I don't plan on "coosin'" contact with the "fam" - I mean what's done
 is done, we all made our share of mistakes so it's time 2 move
 onward as best we can! Whoo-dee (who-dee = it's just over 1 day)
 u know them - pres you let "Lingenfelt" ^{spit} see - I saw them 2, that
 as the 1st time I saw them it was weird - not how I pictured
 I know interesting 2 say the least what did you think
 when you saw 4 the 1st time - oh, this is something I been
 meanin' 2 ask you - you know, Philly got us all found out
 as that planned or was she just not thinkin' - did you
 know she had called? truthfully if so, why you ain't say sum'
 Look, turtle, before we go any further let's get one thing
 str-8 bwn us - I don't care what you do with everybody else
 ut wit me - just be real No Lies I mean I ain't
 ever lied 2 you - think about it so let's not let that
 be a part of this friendship I know you mad at me &
 I can't understand why you tried 2 fix things after every-
 thing that's happened but you did & I want 2 know
 why - the real reason, I want 2 know how you feel about
EVERYTHING - the TRUTH - And I wanna know if we still
 "fam", if we ever was? I mean: clogg - sm. sorry. cuzzo
 I don't think I could've have or woulda been within' 2 do

what you was gone do ; I woulda been so mad, I don't know Jami
 sinit nuttin' I can say 2 repay that but I'ma do my best :
 trust & believe you got a friend 4 life. Word!! So, movin
 on do you keep in touch w/ anybody from home? I do, several
 ppl - Are you & Kilo & E-haw still gone write? Why you way down in
 Bennettsville? wouldn't you rather be with C or Kilo? Oh, let me
 ask you something. When I say, I'll be I supposed 2 say I'll be &
 why does that mean.. folk love? anyway just sum' I was wonderin
 So, whats up w/ you & Billy? You know I really do love Kilo man I
 just wish I woulda realized sooner ya mean? But I feel damn lucky
 I have him!!

OK, SKi-SKert you know when you write me not 2 write like you
 lock down, cuz they gone be on my mail. 4 at least the first month
 don't sign yo' real name, use turtle. 3 mail them 2 the address on the
 envelope. it's all good. Oh, I want a pic of you if you have any - when
 I get 2 my hotel about sometime in Jan. - I'll send you a couple of me if
 you want Anyway, look do you know how ~~to~~ you make a tattoo gun
 I know you can find out, so let me know - i-right & how do I get the
 ink? these things I got 2 know! - you know how I do?

OK ✓ this out.

this a lil sum. I'm workin' on I don't know if I want 2 make
 it a rap or a poem - I mean if I make it a rap I have 2 cut in 1/2
 somewhere & the of a chorus :

"AMERICA"

they say they want peace in the middle east, but I can't see, what with all the
 ops we sendin' in & Mr. Bush just keeps ramblin' on & on singin' the same
 d song, but it's been so long, since I seen my Airborne Ranger, I think his life
 old be in danger. And we got homeless still roamin' the streetz, and middle
 class society is takin' 2 jobs 2 make ends meet. the prisons is packed like 80
 oes on 2 feet & we layin' down in defeat. like we can't accomplish this
 great feat; this is America land of the brave, where dreams are made &
 some of the free; & help 2 refugees & lands overseas but Mr. President oen
 : "plz" take a moment 2 get down on our knees & pray 4 these hard
 hard times where God don't even enter the mind of the "pop" who live in the
 nd that was fought & paid 4 with the blood of the Christian hand, I just can't
 nderstand, why we don't talk about the MAN without everybody gettin' their
 panties in a wad - wasn't this great Country founded upon God? but we took
 him outta schools so we wouldn't look like fools 2 the same refugees that came
 rom overseas 2 be free 2 practice Christianity - so whos really wrong see?
 them or us? Am I talkin' 2 much? - hope I'm offendin' you cuz I ain't
 nowhere near through - I ain't even talked about our troubled youth & how
 e blame it on the music, when just last night on ch. 9, all durnin' prime-
 me when the K through 5 is up glacial 2 the tube I saw a dude marry a
 dude, a 15 yr old girl get screwed, kissin' cousins, heard about 5 or 6
 dozen j curse words and a lil cartoon flipped me the bird. And while
 I watched in silence 6 "pop" got killed in brutal violence, so whos really
 ? blame 4 all the change, they say we progressin but the whole world is
 stressin' and the evil is catchin' like a brand new facel, but it won't
 go away. like high tops & fakes - I tell ya man we in the last days -
 Do you hear the words comin' outta my mouth? if so do you know what
 I'm talkin' bout! gg —

5.

So, what-cha think? fu' real - be honest

hey can I ask you a? you aint gotta tell me if you can't
but whats the 6 points stand 4 on the star I know some of them but
not all And I know you been "down since day one" but how long
you really been ↓? just wonderin'.

Look, playa we got a lot 2 talk about so get yz pen & let
hit the paper - - - - - just be real w/ me turtle, I need 2 understand why you
did what you do, in the beginnin', now, why you told Krlo & C. you
did - - - - - Answer all my? ok. Hey you know Bozz is in 2.
right?

I'll holla back soon as you do - remember be careful

and

Be Easy

ONE LOVE
much Respect
L.A.S.

'Trice' Daddy

to pop the top and let the sunshine in ... the do'
woodgrain, let the twinkies spin, get you a glass mix
the coke and the hen, put the dro' in the wheel " to

Nappy Roots

to " All my life been po', but it really dont matter no mo'
I wonder why we act this way. - Nappy Boyz gone to ok " to

TUPAC

to " I see blacks & CRIPS runnin' up the hill, lookin' 4 a betta way
my brothas & sistas it time 2 bail cuz even Thug Niggas pray "

STATE OF SOUTH CAROLINA
COUNTY OF YORK

James Corbett, #280660,

Applicant,

v.

State of South Carolina,

Respondent.

FILED-RECEIVED

2012 SEP 17 PM 1:17

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

2009-CP-46-1289

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 24, 2009. The Applicant also filed a Motion for Default Judgment on September 24, 2009. The Respondent made its Return and Motion to Dismiss on December 20, 2011. This Court filed a Conditional Order of Dismissal on January 10, 2012. An evidentiary hearing into the matter was convened on August 17, 2012, at the Moss Justice Center in York, SC. Nathan Sheldon, Esquire represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Jessica Jones, SCDC #298496, also testified. This Court had before it a copy of the records of the York County Clerk of Court, records from the South Carolina Department of Corrections, Applicant's prior PCR Appeal Appendix, and a letter written by Jessica Jones to Applicant.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2003 term of the York County Grand Jury for Murder (2003-GS-46-1055) and

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2012

Kidnapping (2003-GS-46-1056). He was represented by Dan D'Agostino, Esquire. On April 10, 2003, the Applicant pled guilty to both charges as indicted. The Honorable John C. Hayes, III sentenced the Applicant to confinement for a period of forty (40) years for Murder and thirty (30) years, concurrent, for Kidnapping. The Applicant did not appeal his conviction or sentence.

2004-CP-46-0896

The Applicant filed his first application for post-conviction relief (PCR) on April 12, 2004.

The Applicant alleged the following reason that he is being held in custody unlawfully:

1. "Counsel was ineffective by informing defendant that he would fall under the 85% law for violent offenders, when in fact defendant must serve 100% of his sentence because of the charge of murder."
2. "Counsel was ineffective by not having defendant evaluated by mental health to determine if he was mentally stable to stand trial or determine [defendant's] state of mind at the time the offense was committed; when in fact the defendant is and has been classified by mental health professionals as being mentally ill and having a long history of mental illness, dating back over 10 years."
3. "Counsel was ineffective by allowing defendant to plead guilty to a 'conditional plea agreement' which both the State and counsel refused to put in writing because it was under the table. Such pleas, at the time of entry of [my] plea, were/are illegal and counsel should have been aware of the fact."
4. "Counsel was ineffective by not ensuring that the 'plea agreement' was enforced and all promises "
5. "State failed to meet all of the conditions of [the] plea agreement. Defendant entered a plea of guilty after an agreement was made between the Solicitor's office and defendant's counsel and defendant. As part of this 'plea agreement' the State was supposed to fulfill certain promises/obligations after sentencing. However, after sentencing the State failed to hold up its end of the 'agreement' which makes the plea invalid "
6. "State failed to give defendant a full and complete copy of motion of discovery. There are several pieces of evidence in the State's possession which were not given to the defendant as a part of his motion of discovery."

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260

The Respondent filed its Return on January 19, 2005. An evidentiary hearing was held on February 28, 2006 at the Moss Justice Center. The Applicant was present and represented by Leah Moody, Esquire. By Order dated March 22, 2006, the Honorable Lee S. Alford denied and dismissed the Applicant's case with prejudice.

A timely Notice of Appeal was filed and an appeal perfected pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The South Carolina Supreme Court denied the Applicant's appeal by written Order on February 21, 2008. The Remittitur was issued on March 10, 2008.

9:09-754-HMH-BM

On March 24, 2009, the Applicant filed a Writ of Habeas Corpus in the United States District Court. The Honorable Bristow Marchant issued a Report and Recommendation on December 9, 2009, recommending that the action be dismissed. On March 4, 2009, the Honorable Henry M. Herlong, Jr. adopted the Report and Recommendation and granted the State's Motion for Summary Judgment, denying the Applicant's Habeas Corpus claim.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant has newly discovered evidence that shows that he is innocent of the murder charge."
 - a. "Applicant has a statement/letter from co-defendant, where co-defendant admits committing the murder"
2. "Subject Matter Jurisdiction (kidnapping charge)"
 - a. "Applicant nor co-defendants did not kidnap anyone in State of S.C. Kidnapping occurred in State of N.C., so S.C. had no jurisdiction."

At the beginning of the evidentiary hearing and after the Respondent's calling of the case, Applicant's counsel explained to the Court, he and the Solicitor agreed the kidnapping in this case

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BMO

was not sexual in nature and consented to present an order to this Court. This Court then entered an order removing the Applicant from the Sex Offender Registry.

The Respondent then moved for this Court to deny the Applicant's Motion for Default Judgment. The Respondent argued under Rule 55(e), "no judgment by default shall be entered against the State of South Carolina...unless the [Applicant] establishes his claim to relief by evidence satisfactory to the Court." SCRCP 55(e) (1999). The Respondent also argued the Applicant must establish he was prejudiced by the State's default to be granted relief. The Respondent further argued the Applicant pled guilty, already had a prior PCR denied, and had his Federal Habeas Corpus action denied, therefore, the Applicant already had his "bite at the apple."

This Court finds the Applicant's Motion for Default Judgment is denied. The Applicant can prove no prejudice to this action. Kneece v. State, 269 S.C. 177, 236 S.E.2d 746 (1977) (Record failed to show any prejudice to appellant from the respondent's delay to file an answer to a PCR application). The Applicant pled guilty and admitted his role in the murder and kidnapping. He already had an evidentiary hearing in his 2004 PCR action that this Court denied and dismissed. The Applicant further had a Federal Habeas Corpus action, which was also denied. Therefore, he has had his "bite of the apple." This Court further finds the Applicant has failed to present evidence satisfactory to this Court which would entitle the State of South Carolina to be held in default. Thus, this motion is denied.

SUMMARY OF TESTIMONY

First, the Applicant called Jessica Jones to testify concerning the letter she wrote to him, which he claimed was newly discovered evidence that proved he was not the shooter in the murder case. Ms. Jones testified she pled guilty to Kidnapping and received a thirty-year sentence. She also

testified the State dismissed the murder charge against her in exchange for her plea. Ms. Jones then testified she recognized the letter presented and that she authored the letter. Ms. Jones also stated she sent the Applicant this letter soon after her guilty plea in December 2003 when she was still incarcerated at the York County Detention Center. She testified she wrote this letter and referenced "staying with KK" as around the time she was in the detention center because she has not seen "KK" since she has been in the South Carolina Department of Corrections (SCDC). She also stated she does not remember December 9, 2008, the date written on the top-right hand corner of letter, as being the date on which she wrote letter. Ms. Jones explained nowhere in the letter did she claim the Applicant was not the shooter and further, that she did not admit to being the shooter in the letter.

The Applicant testified the letter shows he is innocent of murder. He claims he did not receive the letter until 2009, did not alter the letter, and had been in continuous possession of the letter since he received it. While the Applicant admits the letter is vague, he stated it proves he was not the shooter.

On cross-examination, the Applicant admitted he had already claimed he was not the shooter in his guilty plea, but accepted the responsibility for the role he played in the incident. The Applicant also admitted Solicitor Kevin Brackett explained, at his guilty plea, whether he was the shooter or not was irrelevant because under the theory of 'the hand of one is the hand of all' he was as culpable as the shooter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony

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2008

accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

This Court finds the Applicant's testimony regarding the letter as newly discovered evidence is not credible while also finding Ms. Jones's testimony is credible

Newly Discovered Evidence

The Applicant alleges the letter he received from Ms. Jones is newly discovered evidence which proves he was not the shooter and thus, not guilty of murder.

A party requesting a new trial based on after-discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and,
- (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983).

Additionally, pursuant to S.C. Code Ann. § 17-27-45 (c) (1995), "if the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter **within one year** after the date of actual discovery of the facts by the applicant or **after the date when the facts could have been ascertained by the exercise of reasonable diligence.**" (emphasis added).

In this case, the letter presented is not newly discovered evidence. First, the Applicant pled guilty to this incident in 2003, and thus letter is not material to the issue of guilt or innocence. Second, as Ms. Jones testified, she wrote the letter in December 2003 when she was still incarcerated in the York County Detention Center, and therefore, the Applicant would have had to bring his claim

#6
2003

by December of 2004 because by reasonable diligence, he could have discovered this letter in December of 2003. Nevertheless, this letter contains no statement by Ms. Jones that the Applicant was innocent of the murder charge. Furthermore, even if Ms. Jones did claim in the letter that the Applicant was not the shooter, it would simply be cumulative as the Applicant already claimed he was not the shooter at his guilty plea, yet accepted responsibility for his actions in the incident. Therefore, this letter is not newly discovered evidence, and the Applicant is not entitled to a new trial.

Summary Judgment

At the end of the Applicant's testimony, the Respondent moved for summary judgment pursuant to SCRCP 56 (b) and (c). SCRCP 56 (b) states: "A party against whom a claim...is asserted...may, at any time, move...for summary judgment in his favor as to all or any part thereof."

Summary judgment is appropriate when "the pleadings [and other documents] show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." SCRCP 56 (c) (1986).

In this case, the Applicant presented no genuine issue of material fact because the evidence he presented in the form of Ms. Jones's letter never claimed he was not the shooter nor did it show he was less culpable for the incident. The Applicant admitted his role in the kidnapping and murder at his guilty plea, and has presented no evidence to the contrary. Therefore, even viewing the facts in a light most favorable to the Applicant, the Respondent is entitled to a judgment as a matter of law as there is no genuine issue of material fact.

CONCLUSION

Page 7 of 8

#7
2003

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The Respondent's Motion for Summary Judgment is granted; and
2. The Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED!

September 4, 2012
Yace, South Carolina

Lee S. Alford
 Lee S. Alford
 Presiding Circuit Court Judge
 Sixteenth Judicial Circuit

#8
2012

DOCKET NO. 2003-GS-46- 1056

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

March 13, Term 2003

THE STATE

VS.

James Ray Corbett, Jr.

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I, James Ray Corbett, Jr., hereby appear in my own proper person and plead guilty to the within indictment, or to

Kidnapping

Defendant.

Witness:

Jeremi Scroggin Clerk III
C.C.C. PLS. AND @.S.

Indictment for

**COUNT I -
KIDNAPPING**

SC Code: 16-3-910
CDR Code: 0095

**COUNT II -
POSSESSION OF A FIREARM
DURING THE COMMISSION
OF A VIOLENT CRIME**

SC Code: 16-23-490
CDR Code: 549

WITNESSES

SO/Strait

ARREST WARRANT NUMBER

89489

ect Indictment

ACTION OF GRAND JURY

TRUE BILL

Steven B. DeLoach
reperson of Grand Jury 3/13/03

VERDICT

reperson of Petit Jury
te

CERTIFIED TRUE COPY
2009 MAR 25 PM 3:51
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

At a Court of General Sessions, convened on March 13, 2003 the Grand Jurors of York County present upon their oath:

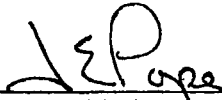
COUNT I - KIDNAPPING

That on or about or during the time period of October 1, 2002 through October 2, 2002, inclusive, the Defendant James Ray Corbett Jr. did unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Joseph Lee Hale, without authority of law and against the will and consent of the victim. Said incident occurred in York County, South Carolina. All in violation of Section 16-3-910, Code of Laws of South Carolina (1976, as amended).

**COUNT II - POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME**

That on or about or during the time period of October 1, 2002 through October 2, 2002, inclusive, the Defendant James Ray Corbett Jr. did unlawfully have in his actual or constructive possession a firearm while committing the crime of Kidnapping, a violent crime as defined in Section 16-1-60, Code of Laws of South Carolina (1976, as amended). Said incident occurred within York County, South Carolina. All in violation of Section 16-23-490, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

DOCKET NO. 2003-GS-46- 1055

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

March 13, Term 2003

THE STATE

vs.

James Ray Corbett, Jr.

Indictment for

COUNT I - MURDER

SC Code: 16-3-10
CDR Code: 0116

**COUNT II - POSSESSION OF A
FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME**

SC Code: 16-23-490
CDR Code: 549

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant.

I, James Ray Corbett, Jr., hereby appear
in my own proper person and plead
guilty to the within indictment, or to

Murder

Defendant

Witness:

Dereasa Scoggins Clerk III
C.C.C. PLS. AND C.G.

CERTIFIED TRUE COPY
2009 MAR 25 PM 3:51
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

SO/Maggart

ARREST WARRANT NUMBER

89443

ect Indictment

ACTION OF GRAND JURY

TRUE BILL

Steven B. DePaola
reperson of Grand Jury 3/13/03

VERDICT

reperson of Petit Jury
te:

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on March 13, 2003 the Grand Jurors of York County present upon their oath:

COUNT I - MURDER

That on or about or during the time period of October 1, 2002 through October 2, 2002, inclusive, the Defendant James Ray Corbett, Jr., did, with malice aforethought, unlawfully kill the victim Joseph Lee Hale, by means of shooting the victim, and said victim died as a result thereof. Said incident occurred in York County, South Carolina All in violation of Section 16-3-10, Code of Laws of South Carolina (1976, as amended).

**COUNT II - POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME**

That on or about or during the time period of October 1, 2002 through October 2, 2002, inclusive, the Defendant James Ray Corbett, Jr., did unlawfully have in his actual or constructive possession a firearm while committing the crime of Murder, a violent crime as defined in Section 16-1-60, Code of Laws of South Carolina (1976, as amended). Said incident occurred within York County, South Carolina. All in violation of Section 16-23-490, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided

LE Pope
SOLICITOR